Companies Act 2006

2006 CHAPTER 46

PART 1

GENERAL INTRODUCTORY PROVISIONS

Modifications etc. (not altering text)

C1 Pts. 1-39 modified (31.12.2020) by Regulation (EC) No. 2157/2001, Art. AAA1(3) (as inserted by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **97** (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), 5(a)-(f)); 2020 c. 1, Sch. 5 para. 1(1))

C2 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

Companies and Companies Acts

1 Companies

(1) In the Companies Acts, unless the context otherwise requires—

"company" means a company formed and registered under this Act, that is—

(a) a company so formed and registered after the commencement of this Part, or

(b) a company that immediately before the commencement of this Part—

(i) was formed and registered under the Companies Act 1985 (c. 6) or the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)), or

(ii) was an existing company for the purposes of that Act or that Order,

(which is to be treated on commencement as if formed and registered under this Act).

(2) Certain provisions of the Companies Acts apply to—

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(a) companies registered, but not formed, under this Act (see Chapter 1 of Part 33), and

(b) bodies incorporated in the United Kingdom but not registered under this Act (see Chapter 2 of that Part).

(3) For provisions applying to companies incorporated outside the United Kingdom, see Part 34 (overseas companies).

2 The Companies Acts

(1) In this Act "the Companies Acts" means—

(a) the company law provisions of this Act,

(b) Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27) (community interest companies), and

(c) the provisions of the Companies Act 1985 (c. 6) and the Companies Consolidation (Consequential Provisions) Act 1985 (c. 9) that remain in force.

(2) The company law provisions of this Act are—

(a) the provisions of Parts 1 to 39 of this Act, and

(b) the provisions of Parts 45 to 47 of this Act so far as they apply for the purposes of those Parts.

Commencement Information

I1 S. 2 wholly in force at 6.4.2007; s. 2 not in force at Royal Assent, see s. 1300; s. 2 in force for specified purposes at 1.1.2007 and 20.1.2007 by S.I. 2006/3428, **arts. 2(2)(a)**, **3(2)(a)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 2 wholly in force at 6.4.2007 by S.I. 2007/1093 {art. 2(1)(a)} (subject to transitional adaptations in Sch. 1 para. 1)

Types of company

3 Limited and unlimited companies

(1) A company is a "limited company" if the liability of its members is limited by its constitution.

It may be limited by shares or limited by guarantee.

(2) If their liability is limited to the amount, if any, unpaid on the shares held by them, the company is "limited by shares".

(3) If their liability is limited to such amount as the members undertake to contribute to the assets of the company in the event of its being wound up, the company is "limited by guarantee".

(4) If there is no limit on the liability of its members, the company is an "unlimited company".

4 Private and public companies

(1) A "private company" is any company that is not a public company.

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(2) A "public company" is a company limited by shares or limited by guarantee and having a share capital—

(a) whose certificate of incorporation states that it is a public company, and

(b) in relation to which the requirements of this Act, or the former Companies Acts, as to registration or re-registration as a public company have been complied with on or after the relevant date.

(3) For the purposes of subsection (2)(b) the relevant date is—

(a) in relation to registration or re-registration in Great Britain, 22nd December 1980;

(b) in relation to registration or re-registration in Northern Ireland, 1st July 1983.

(4) For the two major differences between private and public companies, see Part 20.

5 Companies limited by guarantee and having share capital

(1) A company cannot be formed as, or become, a company limited by guarantee with a share capital.

(2) Provision to this effect has been in force—

(a) in Great Britain since 22nd December 1980, and

(b) in Northern Ireland since 1st July 1983.

(3) Any provision in the constitution of a company limited by guarantee that purports to divide the company's undertaking into shares or interests is a provision for a share capital.

This applies whether or not the nominal value or number of the shares or interests is specified by the provision.

6 Community interest companies

(1) In accordance with Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27)—

(a) a company limited by shares or a company limited by guarantee and not having a share capital may be formed as or become a community interest company, and

(b) a company limited by guarantee and having a share capital may become a community interest company.

(2) The other provisions of the Companies Acts have effect subject to that Part.

PART 2

COMPANY FORMATION

Modifications etc. (not altering text)

C3 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

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General

7 Method of forming company

(1) A company is formed under this Act by one or more persons—

(a) subscribing their names to a memorandum of association (see section 8), and

(b) complying with the requirements of this Act as to registration (see sections 9 to 13).

(2) A company may not be so formed for an unlawful purpose.

8 Memorandum of association

(1) A memorandum of association is a memorandum stating that the subscribers—

(a) wish to form a company under this Act, and

(b) agree to become members of the company and, in the case of a company that is to have a share capital, to take at least one share each.

(2) The memorandum must be in the prescribed form and must be authenticated by each subscriber.

Commencement Information

I2 S. 8 wholly in force at 1.10.2009; s. 8 not in force at Royal Assent, see s. 1300; s. 8 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 8 in force at 1.10.2009 in so far as not already in force by S.I. 2008/2860, **art. 3(b)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Requirements for registration

9 Registration documents

(1) The memorandum of association must be delivered to the registrar together with an application for registration of the company, the documents required by this section and a statement of compliance.

(2) The application for registration must state—

(a) the company's proposed name,

(b) whether the company's registered office is to be situated in England and Wales (or in Wales), in Scotland or in Northern Ireland,

(c) whether the liability of the members of the company is to be limited, and if so whether it is to be limited by shares or by guarantee, and

(d) whether the company is to be a private or a public company.

(3) If the application is delivered by a person as agent for the subscribers to the memorandum of association, it must state his name and address.

(4) The application must contain—

(a) in the case of a company that is to have a share capital, a statement of capital and initial shareholdings (see section 10);

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(b) in the case of a company that is to be limited by guarantee, a statement of guarantee (see section 11);

(c) a statement of the company's proposed officers (see section 12)**[**F1;

(d) a statement of initial significant control (see section 12A).**]**

(5) The application must also contain—

(a) a statement of the intended address of the company's registered office; F2...

(b) a copy of any proposed articles of association (to the extent that these are not supplied by the default application of model articles: see section 20)**[**F3; and

(c) a statement of the type of company it is to be and its intended principal business activities.**]**

[F4(5A) The information as to the company's type must be given by reference to the classification scheme prescribed for the purposes of this section.

(5B) The information as to the company's intended principal business activities may be given by reference to one or more categories of any prescribed system of classifying business activities.**]**

(6) The application must be delivered—

(a) to the registrar of companies for England and Wales, if the registered office of the company is to be situated in England and Wales (or in Wales);

(b) to the registrar of companies for Scotland, if the registered office of the company is to be situated in Scotland;

(c) to the registrar of companies for Northern Ireland, if the registered office of the company is to be situated in Northern Ireland.

Textual Amendments

F1 S. 9(4)(d) inserted (26.5.2015 for specified purposes, 30.6.2016 in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 3 para. 4**; S.I. 2015/1329, reg. 3(a); S.I. 2015/2029, reg. 5(b)

F2 Word in s. 9(5) omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 93(2)(a)**, 164(1); S.I. 2016/321, reg. 6(b)

F3 S. 9(5)(c) and word inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 93(2)(b)**, 164(1); S.I. 2016/321, reg. 6(b)

F4 S. 9(5A)(5B) inserted (1.1.2016 for specified purposes, 30.6.2016 in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 93(3)**, 164(1); S.I. 2015/2029, reg. 3(b); S.I. 2016/321, reg. 6(b)

10 Statement of capital and initial shareholdings

(1) The statement of capital and initial shareholdings required to be delivered in the case of a company that is to have a share capital must comply with this section.

(2) It must state—

(a) the total number of shares of the company to be taken on formation by the subscribers to the memorandum of association,

(b) the aggregate nominal value of those shares,

[F5(ba) the aggregate amount (if any) to be unpaid on those shares (whether on account of their nominal value or by way of premium), and**]**

(c) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class, [F6]...

[F6](d) . . . . . .

(3) It must contain such information as may be prescribed for the purpose of identifying the subscribers to the memorandum of association.

(4) It must state, with respect to each subscriber to the memorandum—

(a) the number, nominal value (of each share) and class of shares to be taken by him on formation, and

(b) the amount to be paid up and the amount (if any) to be unpaid on each share (whether on account of the nominal value of the share or by way of premium).

(5) Where a subscriber to the memorandum is to take shares of more than one class, the information required under subsection (4)(a) is required for each class.

Textual Amendments

F5 S. 10(2)(ba) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 2(a)**; S.I. 2016/321, reg. 6(e)

F6 S. 10(2)(d) and word omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 2(b)**; S.I. 2016/321, reg. 6(e)

Commencement Information

I3 S. 10 wholly in force at 1.10.2009; s. 10 not in force at Royal Assent, see s. 1300; s. 10 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 10 in force at 1.10.2009 in so far as not already in force by S.I. 2008/2860, **art. 3(b)**

11 Statement of guarantee

(1) The statement of guarantee required to be delivered in the case of a company that is to be limited by guarantee must comply with this section.

(2) It must contain such information as may be prescribed for the purpose of identifying the subscribers to the memorandum of association.

(3) It must state that each member undertakes that, if the company is wound up while he is a member, or within one year after he ceases to be a member, he will contribute to the assets of the company such amount as may be required for—

(a) payment of the debts and liabilities of the company contracted before he ceases to be a member,

(b) payment of the costs, charges and expenses of winding up, and

(c) adjustment of the rights of the contributories among themselves,

not exceeding a specified amount.

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Commencement Information

I4 S. 11 wholly in force at 1.10.2009; s. 11 not in force at Royal Assent, see s. 1300; s. 11 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 11 in force at 1.10.2009 in so far as not already in force by S.I. 2009/2860, **art. 3(b)**

12 Statement of proposed officers

(1) The statement of the company's proposed officers required to be delivered to the registrar must contain the required particulars of—

(a) the person who is, or persons who are, to be the first director or directors of the company;

(b) in the case of a company that is to be a private company, any person who is (or any persons who are) to be the first secretary (or joint secretaries) of the company;

(c) in the case of a company that is to be a public company, the person who is (or the persons who are) to be the first secretary (or joint secretaries) of the company.

(2) The required particulars are the particulars that will be required **[**F7(or, in the absence of an election under section 167A or 279A, would be required)**]** to be stated—

(a) in the case of a director, in the company's register of directors and register of directors' residential addresses (see sections 162 to 166);

(b) in the case of a secretary, in the company's register of secretaries (see sections 277 to 279).

(3) **[**F8The statement must also include a statement by the subscribers to the memorandum of association that each of the persons named as a director, as secretary or as one of the joint secretaries has consented to act in the relevant capacity.**]**

If all the partners in a firm are to be joint secretaries, consent may be given by one partner on behalf of all of them.

Textual Amendments

F7 Words in s. 12(2) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 12**; S.I. 2016/321, reg. 6(c)

F8 Words in s. 12(3) substituted (10.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 100(2)**, 164(1) (with s. 100(6)); S.I. 2015/1689, reg. 4(b)

[F9 12A Statement of initial significant control

(1) The statement of initial significant control required to be delivered to the registrar must—

(a) state whether, on incorporation, there will be anyone who will count for the purposes of section 790M (register of people with significant control over a company) as either a registrable person or a registrable relevant legal entity in relation to the company,

(b) include the required particulars of anyone who will count as such, and

(c) include any other matters that on incorporation will be required (or, in the absence of an election under section 790X, would be required) to be entered in the company's PSC register by virtue of section 790M.

(2) It is not necessary to include under subsection (1)(b) the date on which someone becomes a registrable person or a registrable relevant legal entity in relation to the company.

(3) If the statement includes required particulars of an individual, it must also contain a statement that those particulars are included with the knowledge of that individual.

(4) "Registrable person", "registrable relevant legal entity" and "required particulars" have the meanings given in Part 21A (see sections 790C and 790K).**]**

Textual Amendments

F9 S. 12A inserted (26.5.2015 for specified purposes, 30.6.2016 in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 3 para. 5**; S.I. 2015/1329, reg. 3(a); S.I. 2015/2029, reg. 5(b)

Modifications etc. (not altering text)

C4 S. 12A applied (with modifications) by S.I. 2009/1804, reg. 3A (as inserted (30.6.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(2)(c), Sch. 3 para. 3)

C5 S. 12A modified (30.6.2016) by The European Public Limited-Liability Company (Register of People with Significant Control) Regulations 2016 (S.I. 2016/375), regs. 1(2), **4** (which amending provision was revoked (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **89**; 2020 c. 1, Sch. 5 para. 1(1))

13 Statement of compliance

(1) The statement of compliance required to be delivered to the registrar is a statement that the requirements of this Act as to registration have been complied with.

(2) The registrar may accept the statement of compliance as sufficient evidence of compliance.

Registration and its effect

14 Registration

If the registrar is satisfied that the requirements of this Act as to registration are complied with, he shall register the documents delivered to him.

Modifications etc. (not altering text)

C6 S. 14 applied (with modifications) by S.I. 2004/2326 reg. 87(1) (as substituted (1.10.2014) by The European Economic Interest Grouping and European Public Limited-Liability Company (Amendment) Regulations 2014 (S.I. 2014/2382), regs. 1, **32**)

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15 Issue of certificate of incorporation

(1) On the registration of a company, the registrar of companies shall give a certificate that the company is incorporated.

(2) The certificate must state—

(a) the name and registered number of the company,

(b) the date of its incorporation,

(c) whether it is a limited or unlimited company, and if it is limited whether it is limited by shares or limited by guarantee,

(d) whether it is a private or a public company, and

(e) whether the company's registered office is situated in England and Wales (or in Wales), in Scotland or in Northern Ireland.

(3) The certificate must be signed by the registrar or authenticated by the registrar's official seal.

(4) The certificate is conclusive evidence that the requirements of this Act as to registration have been complied with and that the company is duly registered under this Act.

16 Effect of registration

(1) The registration of a company has the following effects as from the date of incorporation.

(2) The subscribers to the memorandum, together with such other persons as may from time to time become members of the company, are a body corporate by the name stated in the certificate of incorporation.

(3) That body corporate is capable of exercising all the functions of an incorporated company.

(4) The status and registered office of the company are as stated in, or in connection with, the application for registration.

(5) In the case of a company having a share capital, the subscribers to the memorandum become holders of the shares specified in the statement of capital and initial shareholdings.

(6) The persons named in the statement of proposed officers—

(a) as director, or

(b) as secretary or joint secretary of the company,

are deemed to have been appointed to that office.

Modifications etc. (not altering text)

C7 S. 16 excluded by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), **Sch. 4 para. 6** (as amended (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), reg. {40(6)})

Status: *Point in time view as at 31/12/2020.*
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PART 3

A COMPANY'S CONSTITUTION

Modifications etc. (not altering text)

C8 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

CHAPTER 1

INTRODUCTORY

17 A company's constitution

Unless the context otherwise requires, references in the Companies Acts to a company's constitution include—

(a) the company's articles, and

(b) any resolutions and agreements to which Chapter 3 applies (see section 29).

Commencement Information

I5 S. 17 wholly in force at 1.10.2009; s. 17 not in force at Royal Assent see s. 1300; s. 17 in force for specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(3)(a)** (with savings in art. 12 and subject to transitional adaptations specified in Sch. 1 para. 1); s. 17 in force for specified further purposes at 6.4.2008 by S.I. 2007/3495, **art. 3(3)(a)** (with savings in arts. 7, 12); s. 17 in force otherwise at 1.10.2009 by S.I. 2008/2860, **art. 3(c)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

CHAPTER 2

ARTICLES OF ASSOCIATION

General

18 Articles of association

(1) A company must have articles of association prescribing regulations for the company.

(2) Unless it is a company to which model articles apply by virtue of section 20 (default application of model articles in case of limited company), it must register articles of association.

(3) Articles of association registered by a company must—

(a) be contained in a single document, and

(b) be divided into paragraphs numbered consecutively.

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(4) References in the Companies Acts to a company's "articles" are to its articles of association.

19 Power of Secretary of State to prescribe model articles

(1) The Secretary of State may by regulations prescribe model articles of association for companies.

(2) Different model articles may be prescribed for different descriptions of company.

(3) A company may adopt all or any of the provisions of model articles.

(4) Any amendment of model articles by regulations under this section does not affect a company registered before the amendment takes effect.

"Amendment" here includes addition, alteration or repeal.

(5) Regulations under this section are subject to negative resolution procedure.

Commencement Information

I6 S. 19 wholly in force at 1.10.2009; s. 19 not in force at Royal Assent, see s. 1300; s. 19 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 19 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(c)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

20 Default application of model articles

(1) On the formation of a limited company—

(a) if articles are not registered, or

(b) if articles are registered, in so far as they do not exclude or modify the relevant model articles,

the relevant model articles (so far as applicable) form part of the company's articles in the same manner and to the same extent as if articles in the form of those articles had been duly registered.

(2) The "relevant model articles" means the model articles prescribed for a company of that description as in force at the date on which the company is registered.

Modifications etc. (not altering text)

C9 S. 20 excluded by Leasehold Reform, Housing and Urban Development Act 1993 (c. 28), s. 4C(6) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 140(3)(d)** (with art. 10))

C10 S. 20 excluded by Commonhold and Leasehold Reform Act 2002 (c. 15), Sch. 3 para. 2(6) (as inserted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 195(4)(d)** (with art. 10))

C11 S. 20 excluded by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 74(7) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 194(16)(d)** (with art. 10))

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Alteration of articles

21 Amendment of articles

(1) A company may amend its articles by special resolution.

(2) In the case of a company that is a charity, this is subject to—

(a) in England and Wales, **[**[F10]sections 197 and 198 of the Charities Act 2011**]**;

(b) in Northern Ireland, **[**[F11]section 96 of the Charities Act (Northern Ireland) 2008**]** .

(3) In the case of a company that is registered in the Scottish Charity Register, this is subject to—

(a) section 112 of the Companies Act 1989 (c. 40), and

(b) section 16 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).

Textual Amendments

F10 Words in s. 21(2)(a) substituted (14.3.2012) by Charities Act 2011 (c. 25), ss. 354, 355, **Sch. 7 para. 113** (with s. 20(2), Sch. 8)

F11 Words in s. 21(2)(b) substituted (N.I.) (24.6.2013) by Charities Act (Northern Ireland) 2008 (c. 12) (N.I.), ss. 183, 185, {Sch. 8 para. 13(1)}; S.R. 2013/145, **art. 2**, Sch.

Modifications etc. (not altering text)

C12 S. 21 excluded (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 85(2)(a)**, 164(3)(g)(ii)

22 Entrenched provisions of the articles

(1) A company's articles may contain provision ("provision for entrenchment") to the effect that specified provisions of the articles may be amended or repealed only if conditions are met, or procedures are complied with, that are more restrictive than those applicable in the case of a special resolution.

(2) Provision for entrenchment may only be made—

(a) in the company's articles on formation, or

(b) by an amendment of the company's articles agreed to by all the members of the company.

(3) Provision for entrenchment does not prevent amendment of the company's articles—

(a) by agreement of all the members of the company, or

(b) by order of a court or other authority having power to alter the company's articles.

(4) Nothing in this section affects any power of a court or other authority to alter a company's articles.

Modifications etc. (not altering text)

C13 S. 22 excluded (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 85(2)(b)**, 164(3)(g)(ii)

C14 S. 22(3)(a) excluded (1.9.2020) by The Scottish National Investment Bank Act 2020 (Consequential Provision) Order 2020 (S.I. 2020/483), arts. 2, **3(1)**

Commencement Information

I7 S. 22 partly in force; s. 22 not in force at Royal Assent see s. 1300; s. 22 in force for specified purposes at 1.10.2009 by S.I. 2008/2860, **art. 3(c)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18 and S.I. 2009/2476, regs. 1(2)(3), 2(2))

23 Notice to registrar of existence of restriction on amendment of articles

(1) Where a company's articles—

(a) on formation contain provision for entrenchment,

(b) are amended so as to include such provision, or

(c) are altered by order of a court or other authority so as to restrict or exclude the power of the company to amend its articles,

the company must give notice of that fact to the registrar.

(2) Where a company's articles—

(a) are amended so as to remove provision for entrenchment, or

(b) are altered by order of a court or other authority—

(i) so as to remove such provision, or

(ii) so as to remove any other restriction on, or any exclusion of, the power of the company to amend its articles,

the company must give notice of that fact to the registrar.

24 Statement of compliance where amendment of articles restricted

(1) This section applies where a company's articles are subject—

(a) to provision for entrenchment, or

(b) to an order of a court or other authority restricting or excluding the company's power to amend the articles.

(2) If the company—

(a) amends its articles, and

(b) is required to send to the registrar a document making or evidencing the amendment,

the company must deliver with that document a statement of compliance.

(3) The statement of compliance required is a statement certifying that the amendment has been made in accordance with the company's articles and, where relevant, any applicable order of a court or other authority.

(4) The registrar may rely on the statement of compliance as sufficient evidence of the matters stated in it.

25 Effect of alteration of articles on company's members

(1) A member of a company is not bound by an alteration to its articles after the date on which he became a member, if and so far as the alteration—

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(a) requires him to take or subscribe for more shares than the number held by him at the date on which the alteration is made, or

(b) in any way increases his liability as at that date to contribute to the company's share capital or otherwise to pay money to the company.

(2) Subsection (1) does not apply in a case where the member agrees in writing, either before or after the alteration is made, to be bound by the alteration.

26 Registrar to be sent copy of amended articles

(1) Where a company amends its articles it must send to the registrar a copy of the articles as amended not later than 15 days after the amendment takes effect.

(2) This section does not require a company to set out in its articles any provisions of model articles that—

(a) are applied by the articles, or

(b) apply by virtue of section 20 (default application of model articles).

(3) If a company fails to comply with this section an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

Modifications etc. (not altering text)

C15 S. 26 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 1** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C16 S. 26(3)(4) applied by Statutory Water Companies Act 1991 (c. 58), s. 12(6) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 127(5)(e)** (with art. 10))

27 Registrar's notice to comply in case of failure with respect to amended articles

(1) If it appears to the registrar that a company has failed to comply with any enactment requiring it—

(a) to send to the registrar a document making or evidencing an alteration in the company's articles, or

(b) to send to the registrar a copy of the company's articles as amended,

the registrar may give notice to the company requiring it to comply.

(2) The notice must—

(a) state the date on which it is issued, and

(b) require the company to comply within 28 days from that date.

(3) If the company complies with the notice within the specified time, no criminal proceedings may be brought in respect of the failure to comply with the enactment mentioned in subsection (1).

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(4) If the company does not comply with the notice within the specified time, it is liable to a civil penalty of £200.

This is in addition to any liability to criminal proceedings in respect of the failure mentioned in subsection (1).

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

Modifications etc. (not altering text)

C17 S. 27 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 1** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Supplementary

28 Existing companies: provisions of memorandum treated as provisions of articles

(1) Provisions that immediately before the commencement of this Part were contained in a company's memorandum but are not provisions of the kind mentioned in section 8 (provisions of new-style memorandum) are to be treated after the commencement of this Part as provisions of the company's articles.

(2) This applies not only to substantive provisions but also to provision for entrenchment (as defined in section 22).

(3) The provisions of this Part about provision for entrenchment apply to such provision as they apply to provision made on the company's formation, except that the duty under section 23(1)(a) to give notice to the registrar does not apply.

CHAPTER 3

RESOLUTIONS AND AGREEMENTS AFFECTING A COMPANY'S CONSTITUTION

Modifications etc. (not altering text)

C18 Pt. 3 Ch. 3 applied (1.10.2008) by The Companies Act 2006 (Commencement No. 5, Transitional Provisions and Savings) Order 2007 (S.I. 2007/3495), art. 9, **Sch. 4 para. 47(4)** (with savings in arts. 7, 12)

C19 Pt. 3 Ch. 3 excluded (N.I.) (prosp.) by Charities Act (Northern Ireland) 2008 (c. 12) (N.I.), {ss. 112(7)}, 185

C20 Pt. 3 Ch. 3 excluded (E.W.) (1.1.2018) by The Charitable Incorporated Organisations (Conversion) Regulations 2017 (S.I. 2017/1232), regs. 1(1), **4(5)**

29 Resolutions and agreements affecting a company's constitution

(1) This Chapter applies to—

(a) any special resolution;

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(b) any resolution or agreement agreed to by all the members of a company that, if not so agreed to, would not have been effective for its purpose unless passed as a special resolution;

(c) any resolution or agreement agreed to by all the members of a class of shareholders that, if not so agreed to, would not have been effective for its purpose unless passed by some particular majority or otherwise in some particular manner;

(d) any resolution or agreement that effectively binds all members of a class of shareholders though not agreed to by all those members;

(e) any other resolution or agreement to which this Chapter applies by virtue of any enactment.

(2) References in subsection (1) to a member of a company, or of a class of members of a company, do not include the company itself where it is such a member by virtue only of its holding shares as treasury shares.

Modifications etc. (not altering text)

C21 S. 29 modified (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **4(1)**, 39(a), 41 (with regs. 1(2), 3(c))

C22 S. 29 power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

30 Copies of resolutions or agreements to be forwarded to registrar

(1) A copy of every resolution or agreement to which this Chapter applies, or (in the case of a resolution or agreement that is not in writing) a written memorandum setting out its terms, must be forwarded to the registrar within 15 days after it is passed or made.

(2) If a company fails to comply with this section, an offence is committed by—

(a) the company, and

(b) every officer of it who is in default.

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

(4) For the purposes of this section, a liquidator of the company is treated as an officer of it.

Modifications etc. (not altering text)

C23 S. 30 modified (1.10.2008) by The Companies Act 2006 (Commencement No. 5, Transitional Provisions and Savings) Order 2007 (S.I. 2007/3495), arts. 2(4), 9, **Sch. 4 para. 47(5)** (with savings in arts. 7, 12)

C24 S. 30 applied by Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27), s. 37(3) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 227(1)** (with art. 10))

C25 S. 30 applied by Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27), s. 54(3) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 237(1)** (with art. 10))

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C26 S. 30 power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C27 S. 30 modified (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **4(1)**, 39(b) (with regs. 1(2), 3(c))

C28 S. 30(2)-(4) applied by Charities (Northern Ireland) Order 1987 (S.I. 1987/2048 (N.I. 19)), art. 9(3) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 92(3)(b)** (with art. 10))

C29 S. 30(2)-(4) applied by The Charities Act 1993 (c. 10), s. 64(4) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 139(5)** (with art. 10))

C30 S. 30(2)-(4) applied (E.W.) (14.3.2012) by Charities Act 2011 (c. 25), **ss. 198(5)**, 355 (with s. 20(2), Sch. 8)

C31 S. 30(2)-(4) applied (N.I.) by Charities Act (Northern Ireland) 2008 (c. 12 (N.I.)), s. 96(6) (as substituted (19.1.2013) by Charities Act (Northern Ireland) 2013 (c. 3 (N.I.)), ss. 8(1), 10(1), **Sch. 1 para. 19(6)**)

CHAPTER 4

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Statement of company's objects

31 Statement of company's objects

(1) Unless a company's articles specifically restrict the objects of the company, its objects are unrestricted.

(2) Where a company amends its articles so as to add, remove or alter a statement of the company's objects—

(a) it must give notice to the registrar,

(b) on receipt of the notice, the registrar shall register it, and

(c) the amendment is not effective until entry of that notice on the register.

(3) Any such amendment does not affect any rights or obligations of the company or render defective any legal proceedings by or against it.

(4) In the case of a company that is a charity, the provisions of this section have effect subject to—

(a) in England and Wales, **[**F12sections 197 and 198 of the Charities Act 2011**]**;

(b) in Northern Ireland, **[**F13section 96 of the Charities Act (Northern Ireland) 2008**]** .

(5) In the case of a company that is entered in the Scottish Charity Register, the provisions of this section have effect subject to the provisions of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).

Textual Amendments

F12 Words in s. 31(4)(a) substituted (14.3.2012) by Charities Act 2011 (c. 25), ss. 354, 355, **Sch. 7 para. 114** (with s. 20(2), Sch. 8)

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F13 Words in s. 31(4)(b) substituted (N.I.) (24.6.2013) by Charities Act (Northern Ireland) 2008 (c. 12) (N.I.), ss. 183, 185, {Sch. 8 para. 13(2)}; S.R. 2013/145, **art. 2**, Sch.

Other provisions with respect to a company's constitution

32 Constitutional documents to be provided to members

(1) A company must, on request by any member, send to him the following documents—

(a) an up-to-date copy of the company's articles;

(b) a copy of any resolution or agreement relating to the company to which Chapter 3 applies (resolutions and agreements affecting a company's constitution) and that is for the time being in force;

(c) a copy of any document required to be sent to the registrar under—

(i) section 34(2) (notice where company's constitution altered by enactment), or

(ii) section 35(2)(a) (notice where order of court or other authority alters company's constitution);

(d) a copy of any court order under section 899 (order sanctioning compromise or arrangement) or section 900 (order facilitating reconstruction or amalgamation);

[F14(da) a copy of any court order under section 901F (order sanctioning compromise or arrangement for company in financial difficulty) or section 901J (order facilitating reconstruction or amalgamation);**]**

(e) a copy of any court order under section 996 (protection of members against unfair prejudice: powers of the court) that alters the company's constitution;

(f) a copy of the company's current certificate of incorporation, and of any past certificates of incorporation;

(g) in the case of a company with a share capital, a current statement of capital;

(h) in the case of a company limited by guarantee, a copy of the statement of guarantee.

(2) The statement of capital required by subsection (1)(g) is a statement of—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

[F15(ba) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and**]**

(c) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, F16...

(iii) the aggregate nominal value of shares of that class, and

F16(d) . . . . . .

(3) If a company makes default in complying with this section, an offence is committed by every officer of the company who is in default.

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

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Textual Amendments

F14 S. 32(1)(da) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 31** (with ss. 2(2), 5(2))

F15 S. 32(2)(ba) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 3(a)**; S.I. 2016/321, reg. 6(e)

F16 S. 32(2)(d) and preceding word omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 3(b)**; S.I. 2016/321, reg. 6(e)

Commencement Information

I8 S. 32 wholly in force at 1.10.2009; s. 32 not in force at Royal Assent, see s. 1300; s. 32 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 32 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(c)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

33 Effect of company's constitution

(1) The provisions of a company's constitution bind the company and its members to the same extent as if there were covenants on the part of the company and of each member to observe those provisions.

(2) Money payable by a member to the company under its constitution is a debt due from him to the company.

In England and Wales and Northern Ireland it is of the nature of an ordinary contract debt.

34 Notice to registrar where company's constitution altered by enactment

(1) This section applies where a company's constitution is altered by an enactment, other than an enactment amending the general law.

(2) The company must give notice of the alteration to the registrar, specifying the enactment, not later than 15 days after the enactment comes into force.

In the case of a special enactment the notice must be accompanied by a copy of the enactment.

(3) If the enactment amends—

(a) the company's articles, or

(b) a resolution or agreement to which Chapter 3 applies (resolutions and agreements affecting a company's constitution),

the notice must be accompanied by a copy of the company's articles, or the resolution or agreement in question, as amended.

(4) A "special enactment" means an enactment that is not a public general enactment, and includes—

(a) an Act for confirming a provisional order,

(b) any provision of a public general Act in relation to the passing of which any of the standing orders of the House of Lords or the House of Commons relating to Private Business applied, or

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(c) any enactment to the extent that it is incorporated in or applied for the purposes of a special enactment.

(5) If a company fails to comply with this section an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

Modifications etc. (not altering text)

C32 S. 34 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 2** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

35 Notice to registrar where company's constitution altered by order

(1) Where a company's constitution is altered by an order of a court or other authority, the company must give notice to the registrar of the alteration not later than 15 days after the alteration takes effect.

(2) The notice must be accompanied by—

(a) a copy of the order, and

(b) if the order amends—

(i) the company's articles, or

(ii) a resolution or agreement to which Chapter 3 applies (resolutions and agreements affecting the company's constitution),

a copy of the company's articles, or the resolution or agreement in question, as amended.

(3) If a company fails to comply with this section an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

(5) This section does not apply where provision is made by another enactment for the delivery to the registrar of a copy of the order in question.

Modifications etc. (not altering text)

C33 S. 35 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 2** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

36 Documents to be incorporated in or accompany copies of articles issued by company

(1) Every copy of a company's articles issued by the company must be accompanied by—

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(a) a copy of any resolution or agreement relating to the company to which Chapter 3 applies (resolutions and agreements affecting a company's constitution),

(b) where the company has been required to give notice to the registrar under section 34(2) (notice where company's constitution altered by enactment), a statement that the enactment in question alters the effect of the company's constitution,

(c) where the company's constitution is altered by a special enactment (see section 34(4)), a copy of the enactment, and

(d) a copy of any order required to be sent to the registrar under section 35(2)(a) (order of court or other authority altering company's constitution).

(2) This does not require the articles to be accompanied by a copy of a document or by a statement if—

(a) the effect of the resolution, agreement, enactment or order (as the case may be) on the company's constitution has been incorporated into the articles by amendment, or

(b) the resolution, agreement, enactment or order (as the case may be) is not for the time being in force.

(3) If the company fails to comply with this section, an offence is committed by every officer of the company who is in default.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale for each occasion on which copies are issued, or, as the case may be, requested.

(5) For the purposes of this section, a liquidator of the company is treated as an officer of it.

Supplementary provisions

37 Right to participate in profits otherwise than as member void

In the case of a company limited by guarantee and not having a share capital any provision in the company's articles, or in any resolution of the company, purporting to give a person a right to participate in the divisible profits of the company otherwise than as a member is void.

38 Application to single member companies of enactments and rules of law

Any enactment or rule of law applicable to companies formed by two or more persons or having two or more members applies with any necessary modification in relation to a company formed by one person or having only one person as a member.

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PART 4

A COMPANY'S CAPACITY AND RELATED MATTERS

Modifications etc. (not altering text)

C34 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

Capacity of company and power of directors to bind it

39 A company's capacity

(1) The validity of an act done by a company shall not be called into question on the ground of lack of capacity by reason of anything in the company's constitution.

(2) This section has effect subject to section 42 (companies that are charities).

Modifications etc. (not altering text)

C35 S. 39 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 3(a)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

40 Power of directors to bind the company

(1) In favour of a person dealing with a company in good faith, the power of the directors to bind the company, or authorise others to do so, is deemed to be free of any limitation under the company's constitution.

(2) For this purpose—

(a) a person "deals with" a company if he is a party to any transaction or other act to which the company is a party,

(b) a person dealing with a company—

(i) is not bound to enquire as to any limitation on the powers of the directors to bind the company or authorise others to do so,

(ii) is presumed to have acted in good faith unless the contrary is proved, and

(iii) is not to be regarded as acting in bad faith by reason only of his knowing that an act is beyond the powers of the directors under the company's constitution.

(3) The references above to limitations on the directors' powers under the company's constitution include limitations deriving—

(a) from a resolution of the company or of any class of shareholders, or

(b) from any agreement between the members of the company or of any class of shareholders.

(4) This section does not affect any right of a member of the company to bring proceedings to restrain the doing of an action that is beyond the powers of the directors.

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But no such proceedings lie in respect of an act to be done in fulfilment of a legal obligation arising from a previous act of the company.

(5) This section does not affect any liability incurred by the directors, or any other person, by reason of the directors' exceeding their powers.

(6) This section has effect subject to—

section 41 (transactions with directors or their associates), and

section 42 (companies that are charities).

Modifications etc. (not altering text)

C36 S. 40 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 3(a)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

41 Constitutional limitations: transactions involving directors or their associates

(1) This section applies to a transaction if or to the extent that its validity depends on section 40 (power of directors deemed to be free of limitations under company's constitution in favour of person dealing with company in good faith).

Nothing in this section shall be read as excluding the operation of any other enactment or rule of law by virtue of which the transaction may be called in question or any liability to the company may arise.

(2) Where—

(a) a company enters into such a transaction, and

(b) the parties to the transaction include—

(i) a director of the company or of its holding company, or

(ii) a person connected with any such director,

the transaction is voidable at the instance of the company.

(3) Whether or not it is avoided, any such party to the transaction as is mentioned in subsection (2)(b)(i) or (ii), and any director of the company who authorised the transaction, is liable—

(a) to account to the company for any gain he has made directly or indirectly by the transaction, and

(b) to indemnify the company for any loss or damage resulting from the transaction.

(4) The transaction ceases to be voidable if—

(a) restitution of any money or other asset which was the subject matter of the transaction is no longer possible, or

(b) the company is indemnified for any loss or damage resulting from the transaction, or

(c) rights acquired bona fide for value and without actual notice of the directors' exceeding their powers by a person who is not party to the transaction would be affected by the avoidance, or

(d) the transaction is affirmed by the company.

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(5) A person other than a director of the company is not liable under subsection (3) if he shows that at the time the transaction was entered into he did not know that the directors were exceeding their powers.

(6) Nothing in the preceding provisions of this section affects the rights of any party to the transaction not within subsection (2)(b)(i) or (ii).

But the court may, on the application of the company or any such party, make an order affirming, severing or setting aside the transaction on such terms as appear to the court to be just.

(7) In this section—

(a) "transaction" includes any act; and

(b) the reference to a person connected with a director has the same meaning as in Part 10 (company directors).

Modifications etc. (not altering text)

C37 S. 41 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 3(b)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

42 Constitutional limitations: companies that are charities

(1) Sections 39 and 40 (company's capacity and power of directors to bind company) do not apply to the acts of a company that is a charity except in favour of a person who—

(a) does not know at the time the act is done that the company is a charity, or

(b) gives full consideration in money or money's worth in relation to the act in question and does not know (as the case may be)—

(i) that the act is not permitted by the company's constitution, or

(ii) that the act is beyond the powers of the directors.

(2) Where a company that is a charity purports to transfer or grant an interest in property, the fact that (as the case may be)—

(a) the act was not permitted by the company's constitution, or

(b) the directors in connection with the act exceeded any limitation on their powers under the company's constitution,

does not affect the title of a person who subsequently acquires the property or any interest in it for full consideration without actual notice of any such circumstances affecting the validity of the company's act.

(3) In any proceedings arising out of subsection (1) or (2) the burden of proving—

(a) that a person knew that the company was a charity, or

(b) that a person knew that an act was not permitted by the company's constitution or was beyond the powers of the directors,

lies on the person asserting that fact.

(4) In the case of a company that is a charity the affirmation of a transaction to which section 41 applies (transactions with directors or their associates) is ineffective without the prior written consent of—

(a) in England and Wales, the Charity Commission;

(b) in Northern Ireland, the Department for Social Development.

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(5) This section does not extend to Scotland (but see section 112 of the Companies Act 1989 (c. 40)).

Modifications etc. (not altering text)

C38 S. 42 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 3(c)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C39 S. 42(4) applied (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), **art. 6(1)** (with art. 10)

C40 S. 42(4)(b): transfer of functions (N.I.) (19.1.2013) by Charities Act (Northern Ireland) 2013 (c. 3 (N.I.)), **ss. 5(2)**, 10(1) (with s. 6)

Formalities of doing business under the law of England and Wales or Northern Ireland

43 Company contracts

(1) Under the law of England and Wales or Northern Ireland a contract may be made—

(a) by a company, by writing under its common seal, or

(b) on behalf of a company, by a person acting under its authority, express or implied.

(2) Any formalities required by law in the case of a contract made by an individual also apply, unless a contrary intention appears, to a contract made by or on behalf of a company.

Modifications etc. (not altering text)

C41 Ss. 43-47 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **4**

C42 S. 43 applied (with modifications) (1.10.2009) by The Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009 (S.I. 2009/1917), **reg. 4** (with Sch.)

C43 S. 43 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 3(d)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

44 Execution of documents

(1) Under the law of England and Wales or Northern Ireland a document is executed by a company—

(a) by the affixing of its common seal, or

(b) by signature in accordance with the following provisions.

(2) A document is validly executed by a company if it is signed on behalf of the company—

(a) by two authorised signatories, or

(b) by a director of the company in the presence of a witness who attests the signature.

(3) The following are "authorised signatories" for the purposes of subsection (2)—

(a) every director of the company, and

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(b) in the case of a private company with a secretary or a public company, the secretary (or any joint secretary) of the company.

(4) A document signed in accordance with subsection (2) and expressed, in whatever words, to be executed by the company has the same effect as if executed under the common seal of the company.

(5) In favour of a purchaser a document is deemed to have been duly executed by a company if it purports to be signed in accordance with subsection (2).

A "purchaser" means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who for valuable consideration acquires an interest in property.

(6) Where a document is to be signed by a person on behalf of more than one company, it is not duly signed by that person for the purposes of this section unless he signs it separately in each capacity.

(7) References in this section to a document being (or purporting to be) signed by a director or secretary are to be read, in a case where that office is held by a firm, as references to its being (or purporting to be) signed by an individual authorised by the firm to sign on its behalf.

(8) This section applies to a document that is (or purports to be) executed by a company in the name of or on behalf of another person whether or not that person is also a company.

Modifications etc. (not altering text)

C44 Ss. 43-47 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **4**

C45 S. 44 applied (with modifications) (1.10.2009) by The Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009 (S.I. 2009/1917), **reg. 4** (with Sch.)

C46 S. 44 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 3(d)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C47 S. 44 applied (with modifications) (30.6.2011) by The Yarmouth (Isle of Wight) Harbour Revision Order 2011 (S.I. 2011/1347), **art. 24** (with arts. 27, 28)

45 Common seal

(1) A company may have a common seal, but need not have one.

(2) A company which has a common seal shall have its name engraved in legible characters on the seal.

(3) If a company fails to comply with subsection (2) an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

(4) An officer of a company, or a person acting on behalf of a company, commits an offence if he uses, or authorises the use of, a seal purporting to be a seal of the company on which its name is not engraved as required by subsection (2).

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

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(6) This section does not form part of the law of Scotland.

Modifications etc. (not altering text)

C48 Ss. 43-47 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **4**

C49 S. 45(1) applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 3(d)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C50 S. 45(1) applied (with modifications) (30.6.2011) by The Yarmouth (Isle of Wight) Harbour Revision Order 2011 (S.I. 2011/1347), **art. 24** (with arts. 27, 28)

C51 S. 45(3)(4)(5) applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (General) Regulations 2012 (S.I. 2012/3012), regs. 1, **23(3)(4)(6)**

46 Execution of deeds

(1) A document is validly executed by a company as a deed for the purposes of section 1(2)(b) of the Law of Property (Miscellaneous Provisions) Act 1989 (c. 34) and for the purposes of the law of Northern Ireland if, and only if—

(a) it is duly executed by the company, and

(b) it is delivered as a deed.

(2) For the purposes of subsection (1)(b) a document is presumed to be delivered upon its being executed, unless a contrary intention is proved.

Modifications etc. (not altering text)

C52 Ss. 43-47 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **4**

C53 S. 46 applied (with modifications) (1.10.2009) by The Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009 (S.I. 2009/1917), **reg. 4** (with Sch.)

C54 S. 46 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 3(d)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

47 Execution of deeds or other documents by attorney

(1) Under the law of England and Wales or Northern Ireland a company may, by instrument executed as a deed, empower a person, either generally or in respect of specified matters, as its attorney to execute deeds or other documents on its behalf.

(2) A deed or other document so executed, whether in the United Kingdom or elsewhere, has effect as if executed by the company.

Modifications etc. (not altering text)

C55 Ss. 43-47 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **4** (with Sch. 1 paras. 2, 34, 35)

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Formalities of doing business under the law of Scotland

48 Execution of documents by companies

(1) The following provisions form part of the law of Scotland only.

(2) Notwithstanding the provisions of any enactment, a company need not have a company seal.

(3) For the purposes of any enactment—

(a) providing for a document to be executed by a company by affixing its common seal, or

(b) referring (in whatever terms) to a document so executed,

a document signed or subscribed**[**F17(or, in the case of an electronic document, authenticated)**]** by or on behalf of the company in accordance with the provisions of the Requirements of Writing (Scotland) Act 1995 (c. 7) has effect as if so executed.

Textual Amendments

F17 Words in s. 48(3) inserted (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **sch. 5 para. 50(2)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

Modifications etc. (not altering text)

C56 S. 48 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **5**

C57 S. 48 applied (with modifications) (1.10.2009) by The Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009 (S.I. 2009/1917), **reg. 5** (with Sch.)

C58 S. 48 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 3(e)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C59 S. 48(3) applied (with application in accordance with rule 3 of the amending S.I.) by The Postal Administration (Scotland) Rules 2016 (S.I. 2016/900), rules 1, **78(2)**

Other matters

49 Official seal for use abroad

(1) A company that has a common seal may have an official seal for use outside the United Kingdom.

(2) The official seal must be a facsimile of the company's common seal, with the addition on its face of the place or places where it is to be used.

(3) The official seal when duly affixed to a document has the same effect as the company's common seal.

This subsection does not extend to Scotland.

(4) A company having an official seal for use outside the United Kingdom may—

(a) by writing under its common seal, or

(b) as respects Scotland, by writing subscribed**[**F18or authenticated**]** in accordance with the Requirements of Writing (Scotland) Act 1995,

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authorise any person appointed for the purpose to affix the official seal to any deed or other document to which the company is party.

(5) As between the company and a person dealing with such an agent, the agent's authority continues—

(a) during the period mentioned in the instrument conferring the authority, or

(b) if no period is mentioned, until notice of the revocation or termination of the agent's authority has been given to the person dealing with him.

(6) The person affixing the official seal must certify in writing on the deed or other document to which the seal is affixed the date on which, and place at which, it is affixed.

Textual Amendments

F18 Words in s. 49(4)(b) inserted (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **sch. 5 para. 50(3)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

Modifications etc. (not altering text)

C60 S. 49 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **6**

50 Official seal for share certificates etc

(1) A company that has a common seal may have an official seal for use—

(a) for sealing securities issued by the company, or

(b) for sealing documents creating or evidencing securities so issued.

(2) The official seal—

(a) must be a facsimile of the company's common seal, with the addition on its face of the word "Securities", and

(b) when duly affixed to the document has the same effect as the company's common seal.

Modifications etc. (not altering text)

C61 S. 50 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 3(f)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

51 Pre-incorporation contracts, deeds and obligations

(1) A contract that purports to be made by or on behalf of a company at a time when the company has not been formed has effect, subject to any agreement to the contrary, as one made with the person purporting to act for the company or as agent for it, and he is personally liable on the contract accordingly.

(2) Subsection (1) applies—

(a) to the making of a deed under the law of England and Wales or Northern Ireland, and

(b) to the undertaking of an obligation under the law of Scotland,

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as it applies to the making of a contract.

Modifications etc. (not altering text)

C62 S. 51 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **7**

C63 S. 51 applied (with modifications) (1.10.2009) by The Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009 (S.I. 2009/1917), **reg. 6** (with Sch.)

C64 S. 51 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 3(g)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

52 Bills of exchange and promissory notes

A bill of exchange or promissory note is deemed to have been made, accepted or endorsed on behalf of a company if made, accepted or endorsed in the name of, or by or on behalf or on account of, the company by a person acting under its authority.

Modifications etc. (not altering text)

C65 S. 52 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **7**

PART 5

A COMPANY'S NAME

Modifications etc. (not altering text)

C66 Pt. 5 power to apply (with modifications) conferred (E.W.S.) (1.12.2013) by Co-operative and Community Benefit Societies and Credit Unions Act 2010 (c. 7), **ss. 4(1)**(2)(b), 8(2); S.I. 2013/2936, art. 2

C67 Pt. 5 power to apply (with modifications) conferred (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), **ss. 135**, 154 (with Sch. 5)

C68 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

CHAPTER 1

GENERAL REQUIREMENTS

Prohibited names

53 Prohibited names

A company must not be registered under this Act by a name if, in the opinion of the Secretary of State—

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(a) its use by the company would constitute an offence, or
(b) it is offensive.

Modifications etc. (not altering text)

C69 S. 53 applied (with modifications) by S.I. 1989/638 reg. 10(1A)-(1C) (as substituted (1.10.2009) by The European Economic Interest Grouping (Amendment) Regulations 2009 (S.I. 2009/2399), **reg. 13** (with reg. 2))

C70 Ss. 53-56 applied (with modifications) (9.7.2009 for certain purposes otherwise 1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **8** (with Sch. 1 paras. 3, 4, 34, 35) (as amended (14.12.2009) by S.I. 2009/2995, **reg. 2(2)**)

Sensitive words and expressions

54 Names suggesting connection with government or public authority

(1) The approval of the Secretary of State is required for a company to be registered under this Act by a name that would be likely to give the impression that the company is connected with—

(a) Her Majesty's Government, any part of the Scottish administration **[**F19, the Welsh Assembly Government**]** or Her Majesty's Government in Northern Ireland,
(b) a local authority, or
(c) any public authority specified for the purposes of this section by regulations made by the Secretary of State.

(2) For the purposes of this section—

"local authority" means—

(a) a local authority within the meaning of the Local Government Act 1972 (c. 70), the Common Council of the City of London or the Council of the Isles of Scilly,
(b) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39), or
(c) a district council in Northern Ireland;

"public authority" includes any person or body having functions of a public nature.

(3) Regulations under this section are subject to affirmative resolution procedure.

Textual Amendments

F19 Words in s. 54(1)(a) inserted (6.11.2009) by The Government of Wales Act 2006 (Consequential Modifications, Transitional Provisions and Saving) Order 2009 (S.I. 2009/2958), **art. 9**

Modifications etc. (not altering text)

C71 S. 54 applied (with modifications) by S.I. 1989/638, reg. 10(1A)-(1C) (as substituted (1.10.2009) by The European Economic Interest Grouping (Amendment) Regulations 2009 (S.I. 2009/2399), **reg. 13** (with reg. 2))

C72 Ss. 53-56 applied (with modifications) (9.7.2009 for certain purposes otherwise 1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **8** (with Sch. 1 paras. 3, 4, 34, 35) (as amended (14.12.2009) by S.I. 2009/2995, **reg. 2(2)**)

Commencement Information

I9 S. 54 wholly in force at 1.10.2009; s. 54 not in force at Royal Assent, see s. 1300; s. 54 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 32 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(e)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

55 Other sensitive words or expressions

(1) The approval of the Secretary of State is required for a company to be registered under this Act by a name that includes a word or expression for the time being specified in regulations made by the Secretary of State under this section.

(2) Regulations under this section are subject to approval after being made.

Modifications etc. (not altering text)

C73 S. 55 applied (with modifications) by S.I. 1989/638, reg. 10(1A)-(1C) (as substituted (1.10.2009) by The European Economic Interest Grouping (Amendment) Regulations 2009 (S.I. 2009/2399), **reg. 13** (with reg. 2))

C74 Ss. 53-56 applied (with modifications) (9.7.2009 for certain purposes otherwise 1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **8** (with Sch. 1 paras. 3, 4, 34, 35) (as amended (14.12.2009) by S.I. 2009/2995, **reg. 2(2)**)

Commencement Information

I10 S. 55 wholly in force at 1.10.2009; s. 55 not in force at Royal Assent see s. 1300; s. 55 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 55 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(e)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

56 Duty to seek comments of government department or other specified body

(1) The Secretary of State may by regulations under—

(a) section 54 (name suggesting connection with government or public authority), or

(b) section 55 (other sensitive words or expressions),

require that, in connection with an application for the approval of the Secretary of State under that section, the applicant must seek the view of a specified Government department or other body.

(2) Where such a requirement applies, the applicant must request the specified department or other body (in writing) to indicate whether (and if so why) it has any objections to the proposed name.

(3) Where a request under this section is made in connection with an application for the registration of a company under this Act, the application must—

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(a) include a statement that a request under this section has been made, and

(b) be accompanied by a copy of any response received.

(4) Where a request under this section is made in connection with a change in a company's name, the notice of the change sent to the registrar must be accompanied by—

(a) a statement by a director or secretary of the company that a request under this section has been made, and

(b) a copy of any response received.

(5) In this section "specified" means specified in the regulations.

Modifications etc. (not altering text)

C75 S. 56 applied (with modifications) by S.I. 1989/638, reg. 10(1A)-(1C) (as substituted (1.10.2009) by The European Economic Interest Grouping (Amendment) Regulations 2009 (S.I. 2009/2399), **reg. 13** (with reg. 2))

C76 Ss. 53-56 applied (with modifications) (9.7.2009 for certain purposes otherwise 1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **8** (with Sch. 1 paras. 3, 4, 34, 35) (as amended (14.12.2009) by S.I. 2009/2995, **reg. 2(2)**)

Commencement Information

I11 S. 56 wholly in force at 1.10.2009; s. 56 not in force at Royal Assent, see s. 1300; s. 56 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 56 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(e)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Permitted characters etc

57 Permitted characters etc

(1) The Secretary of State may make provision by regulations—

(a) as to the letters or other characters, signs or symbols (including accents and other diacritical marks) and punctuation that may be used in the name of a company registered under this Act; and

(b) specifying a standard style or format for the name of a company for the purposes of registration.

(2) The regulations may prohibit the use of specified characters, signs or symbols when appearing in a specified position (in particular, at the beginning of a name).

(3) A company may not be registered under this Act by a name that consists of or includes anything that is not permitted in accordance with regulations under this section.

(4) Regulations under this section are subject to negative resolution procedure.

(5) In this section "specified" means specified in the regulations.

Modifications etc. (not altering text)

C77 S. 57 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **9** (with Sch. 1 paras. 3, 34, 35)

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(as amended (31.1.2015) by The Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015 (S.I. 2015/17), reg. 1(1), **Sch. 5 para. 2**)

C78 S. 57(3) applied (with modifications) by S.I. 1989/638, reg. 10(1A)-(1C) (as substituted (1.10.2009) by The European Economic Interest Grouping (Amendment) Regulations 2009 (S.I. 2009/2399), **reg. 13** (with reg. 2))

Commencement Information

I12 S. 57 wholly in force at 1.10.2009; s. 57 not in force at Royal Assent, see s. 1300; s. 57 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 56 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(e)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

CHAPTER 2

INDICATIONS OF COMPANY TYPE OR LEGAL FORM

Required indications for limited companies

58 Public limited companies

(1) The name of a limited company that is a public company must end with "public limited company" or "p.l.c.".

(2) In the case of a Welsh company, its name may instead end with "cwmni cyfyngedig cyhoeddus" or "c.c.c.".

(3) This section does not apply to community interest companies (but see section 33(3) and (4) of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27)).

59 Private limited companies

(1) The name of a limited company that is a private company must end with "limited" or "ltd.".

(2) In the case of a Welsh company, its name may instead end with "cyfyngedig" or "cyf.".

(3) Certain companies are exempt from this requirement (see section 60).

(4) This section does not apply to community interest companies (but see section 33(1) and (2) of the Companies (Audit, Investigations and Community Enterprise) Act 2004).

60 Exemption from requirement as to use of "limited"

(1) A private company is exempt from section 59 (requirement to have name ending with "limited" or permitted alternative) if—

(a) it is a charity,

(b) it is exempted from the requirement of that section by regulations made by the Secretary of State, or

(c) it meets the conditions specified in—

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section 61 (continuation of existing exemption: companies limited by shares), or

section 62 (continuation of existing exemption: companies limited by guarantee).

(2) The registrar may refuse to register a private limited company by a name that does not include the word "limited" (or a permitted alternative) unless a statement has been delivered to him that the company meets the conditions for exemption.

(3) The registrar may accept the statement as sufficient evidence of the matters stated in it.

(4) Regulations under this section are subject to negative resolution procedure.

Commencement Information

I13 S. 60 wholly in force at 1.10.2009; s. 60 not in force at Royal Assent, see s. 1300; s. 60 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 60 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(e)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

61 Continuation of existing exemption: companies limited by shares

(1) This section applies to a private company limited by shares—

(a) that on 25th February 1982—

(i) was registered in Great Britain, and

(ii) had a name that, by virtue of a licence under section 19 of the Companies Act 1948 (c. 38) (or corresponding earlier legislation), did not include the word "limited" or any of the permitted alternatives, or

(b) that on 30th June 1983—

(i) was registered in Northern Ireland, and

(ii) had a name that, by virtue of a licence under section 19 of the Companies Act (Northern Ireland) 1960 (c. 22 (N.I.)) (or corresponding earlier legislation), did not include the word "limited" or any of the permitted alternatives.

(2) A company to which this section applies is exempt from section 59 (requirement to have name ending with "limited" or permitted alternative) so long as—

(a) it continues to meet the following two conditions, and

(b) it does not change its name.

(3) The first condition is that the objects of the company are the promotion of commerce, art, science, education, religion, charity or any profession, and anything incidental or conducive to any of those objects.

(4) The second condition is that the company's articles—

(a) require its income to be applied in promoting its objects,

(b) prohibit the payment of dividends, or any return of capital, to its members, and

(c) require all the assets that would otherwise be available to its members generally to be transferred on its winding up either—

(i) to another body with objects similar to its own, or

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(ii) to another body the objects of which are the promotion of charity and anything incidental or conducive thereto,

(whether or not the body is a member of the company).

62 Continuation of existing exemption: companies limited by guarantee

(1) A private company limited by guarantee that immediately before the commencement of this Part—

(a) was exempt by virtue of section 30 of the Companies Act 1985 (c. 6) or Article 40 of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)) from the requirement to have a name including the word "limited" or a permitted alternative, and

(b) had a name that did not include the word "limited" or any of the permitted alternatives,

is exempt from section 59 (requirement to have name ending with "limited" or permitted alternative) so long as it continues to meet the following two conditions and does not change its name.

(2) The first condition is that the objects of the company are the promotion of commerce, art, science, education, religion, charity or any profession, and anything incidental or conducive to any of those objects.

(3) The second condition is that the company's articles—

(a) require its income to be applied in promoting its objects,

(b) prohibit the payment of dividends to its members, and

(c) require all the assets that would otherwise be available to its members generally to be transferred on its winding up either—

(i) to another body with objects similar to its own, or

(ii) to another body the objects of which are the promotion of charity and anything incidental or conducive thereto,

(whether or not the body is a member of the company).

63 Exempt company: restriction on amendment of articles

(1) A private company—

(a) that is exempt under section 61 or 62 from the requirement to use "limited" (or a permitted alternative) as part of its name, and

(b) whose name does not include "limited" or any of the permitted alternatives,

must not amend its articles so that it ceases to comply with the conditions for exemption under that section.

(2) If subsection (1) above is contravened an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding **[**F20one-tenth of level 5 on the standard scale**][**F20one-tenth of the greater of £5,000 or level 4 on the standard scale**]**.

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(4) Where immediately before the commencement of this section—

(a) a company was exempt by virtue of section 30 of the Companies Act 1985 (c. 6) or Article 40 of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)) from the requirement to have a name including the word "limited" (or a permitted alternative), and

(b) the company's memorandum or articles contained provision preventing an alteration of them without the approval of—

(i) the Board of Trade or a Northern Ireland department (or any other department or Minister), or

(ii) the Charity Commission,

that provision, and any condition of any such licence as is mentioned in section 61(1)(a)(ii) or (b)(ii) requiring such provision, shall cease to have effect.

This does not apply if, or to the extent that, the provision is required by or under any other enactment.

(5) It is hereby declared that any such provision as is mentioned in subsection (4)(b) formerly contained in a company's memorandum was at all material times capable, with the appropriate approval, of being altered or removed under section 17 of the Companies Act 1985 or Article 28 of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)) (or corresponding earlier enactments).

Textual Amendments

F20 Words in s. 63(3) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(2)** (with reg. 5(1))

64 Power to direct change of name in case of company ceasing to be entitled to exemption

(1) If it appears to the Secretary of State that a company whose name does not include "limited" or any of the permitted alternatives—

(a) has ceased to be entitled to exemption under section 60(1)(a) or (b), or

(b) in the case of a company within section 61 or 62 (which impose conditions as to the objects and articles of the company)—

(i) has carried on any business other than the promotion of any of the objects mentioned in subsection (3) of section 61 or, as the case may be, subsection (2) of section 62, or

(ii) has acted inconsistently with the provision required by subsection (4)(a) or (b) of section 61 or, as the case may be, subsection (3)(a) or (b) of section 62,

the Secretary of State may direct the company to change its name so that it ends with "limited" or one of the permitted alternatives.

(2) The direction must be in writing and must specify the period within which the company is to change its name.

(3) A change of name in order to comply with a direction under this section may be made by resolution of the directors.

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This is without prejudice to any other method of changing the company's name.

(4) Where a resolution of the directors is passed in accordance with subsection (3), the company must give notice to the registrar of the change.

Sections 80 and 81 apply as regards the registration and effect of the change.

(5) If the company fails to comply with a direction under this section an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding **[**F21one-tenth of level 5 on the standard scale**][**F21one-tenth of the greater of £5,000 or level 4 on the standard scale**]**.

(7) A company that has been directed to change its name under this section may not, without the approval of the Secretary of State, subsequently change its name so that it does not include "limited" or one of the permitted alternatives.

This does not apply to a change of name on re-registration or on conversion to a community interest company.

Textual Amendments

F21 Words in s. 64(6) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(3)** (with reg. 5(1))

Inappropriate use of indications of company type or legal form

65 Inappropriate use of indications of company type or legal form

(1) The Secretary of State may make provision by regulations prohibiting the use in a company name of specified words, expressions or other indications —

(a) that are associated with a particular type of company or form of organisation, or

(b) that are similar to words, expressions or other indications associated with a particular type of company or form of organisation.

(2) The regulations may prohibit the use of words, expressions or other indications—

(a) in a specified part, or otherwise than in a specified part, of a company's name;

(b) in conjunction with, or otherwise than in conjunction with, such other words, expressions or indications as may be specified.

(3) A company must not be registered under this Act by a name that consists of or includes anything prohibited by regulations under this section.

(4) In this section "specified" means specified in the regulations.

(5) Regulations under this section are subject to negative resolution procedure.

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Modifications etc. (not altering text)

C79 S. 65 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **10** (with Sch. 1 paras. 3, 34, 35) (as amended (31.1.2015) by The Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015 (S.I. 2015/17), reg. 1(1), **Sch. 5 para. 3**

Commencement Information

I14 S. 65 wholly in force at 1.10.2009; s. 65 not in force at Royal Assent, see s. 1300; s. 65 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 65 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(e)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

CHAPTER 3

SIMILARITY TO OTHER NAMES

Similarity to other name on registrar's index

66 Name not to be the same as another in the index

(1) A company must not be registered under this Act by a name that is the same as another name appearing in the registrar's index of company names.

(2) The Secretary of State may make provision by regulations supplementing this section.

(3) The regulations may make provision—

(a) as to matters that are to be disregarded, and

(b) as to words, expressions, signs or symbols that are, or are not, to be regarded as the same,

for the purposes of this section.

(4) The regulations may provide—

(a) that registration by a name that would otherwise be prohibited under this section is permitted—

(i) in specified circumstances, or

(ii) with specified consent, and

(b) that if those circumstances obtain or that consent is given at the time a company is registered by a name, a subsequent change of circumstances or withdrawal of consent does not affect the registration.

(5) Regulations under this section are subject to negative resolution procedure.

(6) In this section "specified" means specified in the regulations.

Modifications etc. (not altering text)

C80 Ss. 66-68 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **11** (with Sch. 1 paras. 3, 34, 35)

Status: *Point in time view as at 31/12/2020.*
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(as amended (31.1.2015) by The Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015 (S.I. 2015/17), reg. 1(1), **Sch. 5 para. 4**)

C81 S. 66(1) applied (with modifications) by S.I. 1989/638, reg. 10(1A)-(1C) (as substituted (1.10.2009) by The European Economic Interest Grouping (Amendment) Regulations 2009 (S.I. 2009/2399), **reg. 13** (with reg. 2))

Commencement Information

I15 S. 66 wholly in force at 1.10.2009; s. 66 not in force at Royal Assent, see s. 1300; s. 66 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 66 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(e)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

67 Power to direct change of name in case of similarity to existing name

(1) The Secretary of State may direct a company to change its name if it has been registered in a name that is the same as or, in the opinion of the Secretary of State, too like—

(a) a name appearing at the time of the registration in the registrar's index of company names, or

(b) a name that should have appeared in that index at that time.

(2) The Secretary of State may make provision by regulations supplementing this section.

(3) The regulations may make provision—

(a) as to matters that are to be disregarded, and

(b) as to words, expressions, signs or symbols that are, or are not, to be regarded as the same,

for the purposes of this section.

(4) The regulations may provide—

(a) that no direction is to be given under this section in respect of a name—

(i) in specified circumstances, or

(ii) if specified consent is given, and

(b) that a subsequent change of circumstances or withdrawal of consent does not give rise to grounds for a direction under this section.

(5) Regulations under this section are subject to negative resolution procedure.

(6) In this section "specified" means specified in the regulations.

Modifications etc. (not altering text)

C82 Ss. 66-68 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **11** (with Sch. 1 paras. 3, 34, 35) (as amended (31.1.2015) by The Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015 (S.I. 2015/17), reg. 1(1), **Sch. 5 para. 4**)

C83 S. 67(1) applied (with modifications) by S.I. 1989/638, reg. 11(1A)(1B) (as inserted (1.10.2009) by The European Economic Interest Grouping (Amendment) Regulations 2009 (S.I. 2009/2399), **reg. 14(3)** (with reg. 2))

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Commencement Information

I16 S. 67 wholly in force at 20.1.2007; s. 67 not in force at Royal Assent, see s. 1300; s. 67 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 67 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(e)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

68 Direction to change name: supplementary provisions

(1) The following provisions have effect in relation to a direction under section 67 (power to direct change of name in case of similarity to existing name).

(2) Any such direction—

(a) must be given within twelve months of the company's registration by the name in question, and

(b) must specify the period within which the company is to change its name.

(3) The Secretary of State may by a further direction extend that period.

Any such direction must be given before the end of the period for the time being specified.

(4) A direction under section 67 or this section must be in writing.

(5) If a company fails to comply with the direction, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

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

Modifications etc. (not altering text)

C84 S. 68 applied (with modifications) by S.I. 1989/638, reg. 11(1A)(1B) (as inserted (1.10.2009) by The European Economic Interest Grouping (Amendment) Regulations 2009 (S.I. 2009/2399), **reg. 14(3)** (with reg. 2))

C85 Ss. 66-68 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **11** (with Sch. 1 paras. 3, 34, 35) (as amended (31.1.2015) by The Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015 (S.I. 2015/17), reg. 1(1), **Sch. 5 para. 4)**)

Similarity to other name in which person has goodwill

69 Objection to company's registered name

(1) A person ("the applicant") may object to a company's registered name on the ground—

(a) that it is the same as a name associated with the applicant in which he has goodwill, or

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(b) that it is sufficiently similar to such a name that its use in the United Kingdom would be likely to mislead by suggesting a connection between the company and the applicant.

(2) The objection must be made by application to a company names adjudicator (see section 70).

(3) The company concerned shall be the primary respondent to the application.

Any of its members or directors may be joined as respondents.

(4) If the ground specified in subsection (1)(a) or (b) is established, it is for the respondents to show—

(a) that the name was registered before the commencement of the activities on which the applicant relies to show goodwill; or

(b) that the company—

(i) is operating under the name, or

(ii) is proposing to do so and has incurred substantial start-up costs in preparation, or

(iii) was formerly operating under the name and is now dormant;or

(c) that the name was registered in the ordinary course of a company formation business and the company is available for sale to the applicant on the standard terms of that business; or

(d) that the name was adopted in good faith; or

(e) that the interests of the applicant are not adversely affected to any significant extent.

If none of those is shown, the objection shall be upheld.

(5) If the facts mentioned in subsection (4)(a), (b) or (c) are established, the objection shall nevertheless be upheld if the applicant shows that the main purpose of the respondents (or any of them) in registering the name was to obtain money (or other consideration) from the applicant or prevent him from registering the name.

(6) If the objection is not upheld under subsection (4) or (5), it shall be dismissed.

(7) In this section "goodwill" includes reputation of any description.

Modifications etc. (not altering text)

C86 Ss. 69-74 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **12**

70 Company names adjudicators

(1) The Secretary of State shall appoint persons to be company names adjudicators.

(2) The persons appointed must have such legal or other experience as, in the Secretary of State's opinion, makes them suitable for appointment.

(3) An adjudicator—

(a) holds office in accordance with the terms of his appointment,

(b) is eligible for re-appointment when his term of office ends,

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(c) may resign at any time by notice in writing given to the Secretary of State, and

(d) may be dismissed by the Secretary of State on the ground of incapacity or misconduct.

(4) One of the adjudicators shall be appointed Chief Adjudicator.

He shall perform such functions as the Secretary of State may assign to him.

(5) The other adjudicators shall undertake such duties as the Chief Adjudicator may determine.

(6) The Secretary of State may—

(a) appoint staff for the adjudicators;

(b) pay remuneration and expenses to the adjudicators and their staff;

(c) defray other costs arising in relation to the performance by the adjudicators of their functions;

(d) compensate persons for ceasing to be adjudicators.

Modifications etc. (not altering text)

C87 Ss. 69-74 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **12**

71 Procedural rules

(1) The Secretary of State may make rules about proceedings before a company names adjudicator.

(2) The rules may, in particular, make provision—

(a) as to how an application is to be made and the form and content of an application or other documents;

(b) for fees to be charged;

(c) about the service of documents and the consequences of failure to serve them;

(d) as to the form and manner in which evidence is to be given;

(e) for circumstances in which hearings are required and those in which they are not;

(f) for cases to be heard by more than one adjudicator;

(g) setting time limits for anything required to be done in connection with the proceedings (and allowing for such limits to be extended, even if they have expired);

(h) enabling the adjudicator to strike out an application, or any defence, in whole or in part—

(i) on the ground that it is vexatious, has no reasonable prospect of success or is otherwise misconceived, or

(ii) for failure to comply with the requirements of the rules;

(i) conferring power to order security for costs (in Scotland, caution for expenses);

(j) as to how far proceedings are to be held in public;

(k) requiring one party to bear the costs (in Scotland, expenses) of another and as to the taxing (or settling) the amount of such costs (or expenses).

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(3) The rules may confer on the Chief Adjudicator power to determine any matter that could be the subject of provision in the rules.

(4) Rules under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C88 Ss. 69-74 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **12**

Commencement Information

I17 S. 71 wholly in force at 1.10.2008; s. 71 not in force at Royal Assent, see s. 1300; s. 71 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 71 in force at 1.10.2008 by S.I. 2007/3495, **art. 5(1)(a)** (with savings in arts. 7, 12)

72 Decision of adjudicator to be made available to public

(1) A company names adjudicator must, within 90 days of determining an application under section 69, make his decision and his reasons for it available to the public.

(2) He may do so by means of a website or by such other means as appear to him to be appropriate.

Modifications etc. (not altering text)

C89 Ss. 69-74 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **12**

73 Order requiring name to be changed

(1) If an application under section 69 is upheld, the adjudicator shall make an order—

(a) requiring the respondent company to change its name to one that is not an offending name, and

(b) requiring all the respondents—

(i) to take all such steps as are within their power to make, or facilitate the making, of that change, and

(ii) not to cause or permit any steps to be taken calculated to result in another company being registered with a name that is an offending name.

(2) An "offending name" means a name that, by reason of its similarity to the name associated with the applicant in which he claims goodwill, would be likely—

(a) to be the subject of a direction under section 67 (power of Secretary of State to direct change of name), or

(b) to give rise to a further application under section 69.

(3) The order must specify a date by which the respondent company's name is to be changed and may be enforced—

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(a) in England and Wales or Northern Ireland, in the same way as an order of the High Court;

(b) in Scotland, in the same way as a decree of the Court of Session.

(4) If the respondent company's name is not changed in accordance with the order by the specified date, the adjudicator may determine a new name for the company.

(5) If the adjudicator determines a new name for the respondent company he must give notice of his determination—

(a) to the applicant,

(b) to the respondents, and

(c) to the registrar.

(6) For the purposes of this section a company's name is changed when the change takes effect in accordance with section 81(1) (on the issue of the new certification of incorporation).

Modifications etc. (not altering text)

C90 Ss. 69-74 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **12**

Commencement Information

I18 S. 73 wholly in force at 1.10.2008; s. 73 not in force at Royal Assent see s. 1300; s. 73 in force at 1.10.2008 by S.I. 2007/3495, **art. 5(1)(a)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 para. 22)

74 Appeal from adjudicator's decision

(1) An appeal lies to the court from any decision of a company names adjudicator to uphold or dismiss an application under section 69.

(2) Notice of appeal against a decision upholding an application must be given before the date specified in the adjudicator's order by which the respondent company's name is to be changed.

(3) If notice of appeal is given against a decision upholding an application, the effect of the adjudicator's order is suspended.

(4) If on appeal the court—

(a) affirms the decision of the adjudicator to uphold the application, or

(b) reverses the decision of the adjudicator to dismiss the application,

the court may (as the case may require) specify the date by which the adjudicator's order is to be complied with, remit the matter to the adjudicator or make any order or determination that the adjudicator might have made.

(5) If the court determines a new name for the company it must give notice of the determination—

(a) to the parties to the appeal, and

(b) to the registrar.

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Modifications etc. (not altering text)

C91 Ss. 69-74 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **12**

CHAPTER 4

OTHER POWERS OF THE SECRETARY OF STATE

75 Provision of misleading information etc

(1) If it appears to the Secretary of State—

(a) that misleading information has been given for the purposes of a company's registration by a particular name, or

(b) that an undertaking or assurance has been given for that purpose and has not been fulfilled,

the Secretary of State may direct the company to change its name.

(2) Any such direction—

(a) must be given within five years of the company's registration by that name, and

(b) must specify the period within which the company is to change its name.

(3) The Secretary of State may by a further direction extend the period within which the company is to change its name.

Any such direction must be given before the end of the period for the time being specified.

(4) A direction under this section must be in writing.

(5) If a company fails to comply with a direction under this section, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

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

Modifications etc. (not altering text)

C92 S. 75 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **13**

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76 Misleading indication of activities

(1) If in the opinion of the Secretary of State the name by which a company is registered gives so misleading an indication of the nature of its activities as to be likely to cause harm to the public, the Secretary of State may direct the company to change its name.

(2) The direction must be in writing.

(3) The direction must be complied with within a period of six weeks from the date of the direction or such longer period as the Secretary of State may think fit to allow.

This does not apply if an application is duly made to the court under the following provisions.

(4) The company may apply to the court to set the direction aside.

The application must be made within the period of three weeks from the date of the direction.

(5) The court may set the direction aside or confirm it.

If the direction is confirmed, the court shall specify the period within which the direction is to be complied with.

(6) If a company fails to comply with a direction under this section, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

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

Modifications etc. (not altering text)

C93 S. 76 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **13**

CHAPTER 5

CHANGE OF NAME

77 Change of name

(1) A company may change its name—

(a) by special resolution (see section 78), or

(b) by other means provided for by the company's articles (see section 79).

(2) The name of a company may also be changed—

(a) by resolution of the directors acting under section 64 (change of name to comply with direction of Secretary of State under that section);

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(b) on the determination of a new name by a company names adjudicator under section 73 (powers of adjudicator on upholding objection to company name);
(c) on the determination of a new name by the court under section 74 (appeal against decision of company names adjudicator);
(d) under section 1033 (company's name on restoration to the register).

78 Change of name by special resolution

(1) Where a change of name has been agreed to by a company by special resolution, the company must give notice to the registrar.

This is in addition to the obligation to forward a copy of the resolution to the registrar.

(2) Where a change of name by special resolution is conditional on the occurrence of an event, the notice given to the registrar of the change must—
(a) specify that the change is conditional, and
(b) state whether the event has occurred.

(3) If the notice states that the event has not occurred—
(a) the registrar is not required to act under section 80 (registration and issue of new certificate of incorporation) until further notice,
(b) when the event occurs, the company must give notice to the registrar stating that it has occurred, and
(c) the registrar may rely on the statement as sufficient evidence of the matters stated in it.

79 Change of name by means provided for in company's articles

(1) Where a change of a company's name has been made by other means provided for by its articles—
(a) the company must give notice to the registrar, and
(b) the notice must be accompanied by a statement that the change of name has been made by means provided for by the company's articles.

(2) The registrar may rely on the statement as sufficient evidence of the matters stated in it.

80 Change of name: registration and issue of new certificate of incorporation

(1) This section applies where the registrar receives notice of a change of a company's name.

(2) If the registrar is satisfied—
(a) that the new name complies with the requirements of this Part, and
(b) that the requirements of the Companies Acts, and any relevant requirements of the company's articles, with respect to a change of name are complied with,

the registrar must enter the new name on the register in place of the former name.

(3) On the registration of the new name, the registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

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Modifications etc. (not altering text)

C94 S. 80 modified (31.12.2020) by S.I. 2004/2326, **reg. 12B** (as inserted by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **8** (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), **5(a)-(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

81 Change of name: effect

(1) A change of a company's name has effect from the date on which the new certificate of incorporation is issued.

(2) The change does not affect any rights or obligations of the company or render defective any legal proceedings by or against it.

(3) Any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

CHAPTER 6

TRADING DISCLOSURES

82 Requirement to disclose company name etc

(1) The Secretary of State may by regulations make provision requiring companies—

(a) to display specified information in specified locations,

(b) to state specified information in specified descriptions of document or communication, and

(c) to provide specified information on request to those they deal with in the course of their business.

(2) The regulations—

(a) must in every case require disclosure of the name of the company, and

(b) may make provision as to the manner in which any specified information is to be displayed, stated or provided.

(3) The regulations may provide that, for the purposes of any requirement to disclose a company's name, any variation between a word or words required to be part of the name and a permitted abbreviation of that word or those words (or vice versa) shall be disregarded.

(4) In this section "specified" means specified in the regulations.

(5) Regulations under this section are subject to affirmative resolution procedure.

Modifications etc. (not altering text)

C95 Ss. 82-85 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 4** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C96 S. 82 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **14** (as amended (31.1.2015) by The

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Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015 (S.I. 2015/17), reg. 1(1), **Sch. 5 para. 5**)

Commencement Information

I19 S. 82 wholly in force at 1.10.2008; s. 82 not in force at Royal Assent, see s. 1300; s. 82 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 82 in force at 1.10.2008 by S.I. 2007/3495, **art. 5(1)(b)** (with savings in arts. 7, 12)

83 Civil consequences of failure to make required disclosure

(1) This section applies to any legal proceedings brought by a company to which section 82 applies (requirement to disclose company name etc) to enforce a right arising out of a contract made in the course of a business in respect of which the company was, at the time the contract was made, in breach of regulations under that section.

(2) The proceedings shall be dismissed if the defendant (in Scotland, the defender) to the proceedings shows—

(a) that he has a claim against the claimant (pursuer) arising out of the contract that he has been unable to pursue by reason of the latter's breach of the regulations, or

(b) that he has suffered some financial loss in connection with the contract by reason of the claimant's (pursuer's) breach of the regulations,

unless the court before which the proceedings are brought is satisfied that it is just and equitable to permit the proceedings to continue.

(3) This section does not affect the right of any person to enforce such rights as he may have against another person in any proceedings brought by that person.

Modifications etc. (not altering text)

C97 Ss. 82-85 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 4** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C98 S. 83 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **14** (as amended (31.1.2015) by The Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015 (S.I. 2015/17), reg. 1(1), **Sch. 5 para. 5**)

84 Criminal consequences of failure to make required disclosures

(1) Regulations under section 82 may provide—

(a) that where a company fails, without reasonable excuse, to comply with any specified requirement of regulations under that section an offence is committed by—

(i) the company, and

(ii) every officer of the company who is in default;

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

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(2) The regulations may provide that, for the purposes of any provision made under subsection (1), a shadow director of the company is to be treated as an officer of the company.

(3) In subsection (1)(a) "specified" means specified in the regulations.

Modifications etc. (not altering text)

C99 S. 84 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(a)**

C100 S. 84 modified (8.00 a.m. on 29.9.2008) by The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2**

C101 S. 84 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(a)**

C102 S. 84 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(a)**

C103 Ss. 82-85 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 4** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C104 S. 84 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(a)**

Commencement Information

I20 S. 84 wholly in force at 1.10.2008; s. 84 not in force at Royal Assent, see s. 1300; s. 84 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 84 in force at 1.10.2008 by S.I. 2007/3495, **art. 5(1)(b)** (with savings in arts. 7, 12)

85 Minor variations in form of name to be left out of account

(1) For the purposes of this Chapter, in considering a company's name no account is to be taken of—

(a) whether upper or lower case characters (or a combination of the two) are used,

(b) whether diacritical marks or punctuation are present or absent,

(c) whether the name is in the same format or style as is specified under section 57(1)(b) for the purposes of registration,

provided there is no real likelihood of names differing only in those respects being taken to be different names.

(2) This does not affect the operation of regulations under section 57(1)(a) permitting only specified characters, diacritical marks or punctuation.

Modifications etc. (not altering text)

C105 Ss. 82-85 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 4** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C106 S. 85 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **15** (as amended (31.1.2015) by The Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015 (S.I. 2015/17), reg. 1(1), **Sch. 5 para. 6**)

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Commencement Information

I21 S. 85 wholly in force at 1.10.2008; s. 85 not in force at Royal Assent see s. 1300; s. 85 in force at 1.10.2008 by S.I. 2007/3495, **art. 5(1)(b)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 para. 23)

PART 6

A COMPANY'S REGISTERED OFFICE

Modifications etc. (not altering text)

C107 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

General

86 A company's registered office

A company must at all times have a registered office to which all communications and notices may be addressed.

Modifications etc. (not altering text)

C108 S. 86 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **16** (as amended (4.3.2024) by The Limited Liability Partnerships (Application of Company Law) Regulations 2024 (S.I. 2024/234), regs. 1(2), **16(2)**; S.I. 2024/269, **reg. 2(a)**)

C109 S. 86 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 5** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

87 Change of address of registered office

(1) A company may change the address of its registered office by giving notice to the registrar.

(2) The change takes effect upon the notice being registered by the registrar, but until the end of the period of 14 days beginning with the date on which it is registered a person may validly serve any document on the company at the address previously registered.

(3) For the purposes of any duty of a company—

(a) to keep available for inspection at its registered office any register, index or other document, or

(b) to mention the address of its registered office in any document,

a company that has given notice to the registrar of a change in the address of its registered office may act on the change as from such date, not more than 14 days after the notice is given, as it may determine.

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(4) Where a company unavoidably ceases to perform at its registered office any such duty as is mentioned in subsection (3)(a) in circumstances in which it was not practicable to give prior notice to the registrar of a change in the address of its registered office, but—

(a) resumes performance of that duty at other premises as soon as practicable, and

(b) gives notice accordingly to the registrar of a change in the situation of its registered office within 14 days of doing so,

it is not to be treated as having failed to comply with that duty.

Modifications etc. (not altering text)

C110 S. 87: power to modify conferred (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), **ss. 39(1)**, 40(e), 49(1) (with ss. 2(2), 5(2), 39(8)(9))

C111 S. 87 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **16**

C112 S. 87 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 5** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C113 S. 87 modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **5**

C114 S. 87(2) applied (E.W.) (31.1.2019) by The Education Administration Rules 2018 (S.I. 2018/1135), rule 1, **Sch. 2 para. 1(3)** (with rule 1.2)

C115 S. 87(4)(b) modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **4**

Welsh companies

88 Welsh companies

(1) In the Companies Acts a "Welsh company" means a company as to which it is stated in the register that its registered office is to be situated in Wales.

(2) A company—

(a) whose registered office is in Wales, and

(b) as to which it is stated in the register that its registered office is to be situated in England and Wales,

may by special resolution require the register to be amended so that it states that the company's registered office is to be situated in Wales.

(3) A company—

(a) whose registered office is in Wales, and

(b) as to which it is stated in the register that its registered office is to be situated in Wales,

may by special resolution require the register to be amended so that it states that the company's registered office is to be situated in England and Wales.

(4) Where a company passes a resolution under this section it must give notice to the registrar, who shall—

(a) amend the register accordingly, and

(b) issue a new certificate of incorporation altered to meet the circumstances of the case.

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Modifications etc. (not altering text)
C116 S. 88 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **17**

PART 7

RE-REGISTRATION AS A MEANS OF ALTERING A COMPANY'S STATUS

Introductory

89 Alteration of status by re-registration

A company may by re-registration under this Part alter its status—

(a) from a private company to a public company (see sections 90 to 96);
(b) from a public company to a private company (see sections 97 to 101);
(c) from a private limited company to an unlimited company (see sections 102 to 104);
(d) from an unlimited private company to a limited company (see sections 105 to 108);
(e) from a public company to an unlimited private company (see sections 109 to 111).

Private company becoming public

90 Re-registration of private company as public

(1) A private company (whether limited or unlimited) may be re-registered as a public company limited by shares if—

(a) a special resolution that it should be so re-registered is passed,
(b) the conditions specified below are met, and
(c) an application for re-registration is delivered to the registrar in accordance with section 94, together with—
(i) the other documents required by that section, and
(ii) a statement of compliance.

(2) The conditions are—

(a) that the company has a share capital;
(b) that the requirements of section 91 are met as regards its share capital;
(c) that the requirements of section 92 are met as regards its net assets;
(d) if section 93 applies (recent allotment of shares for non-cash consideration), that the requirements of that section are met; and
(e) that the company has not previously been re-registered as unlimited.

(3) The company must make such changes—

(a) in its name, and
(b) in its articles,

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as are necessary in connection with its becoming a public company.

(4) If the company is unlimited it must also make such changes in its articles as are necessary in connection with its becoming a company limited by shares.

Modifications etc. (not altering text)

C117 Ss. 90-96 applied (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 3** (with art. 10)

C118 Ss. 90-96 applied (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 3**

91 Requirements as to share capital

(1) The following requirements must be met at the time the special resolution is passed that the company should be re-registered as a public company—

(a) the nominal value of the company's allotted share capital must be not less than the authorised minimum;

(b) each of the company's allotted shares must be paid up at least as to one-quarter of the nominal value of that share and the whole of any premium on it;

(c) if any shares in the company or any premium on them have been fully or partly paid up by an undertaking given by any person that he or another should do work or perform services (whether for the company or any other person), the undertaking must have been performed or otherwise discharged;

(d) if shares have been allotted as fully or partly paid up as to their nominal value or any premium on them otherwise than in cash, and the consideration for the allotment consists of or includes an undertaking to the company (other than one to which paragraph (c) applies), then either—

(i) the undertaking must have been performed or otherwise discharged, or

(ii) there must be a contract between the company and some person pursuant to which the undertaking is to be performed within five years from the time the special resolution is passed.

(2) For the purpose of determining whether the requirements in subsection (1)(b), (c) and (d) are met, the following may be disregarded—

(a) shares allotted—

(i) before 22nd June 1982 in the case of a company then registered in Great Britain, or

(ii) before 31st December 1984 in the case of a company then registered in Northern Ireland;

(b) shares allotted in pursuance of an employees' share scheme by reason of which the company would, but for this subsection, be precluded under subsection (1)(b) (but not otherwise) from being re-registered as a public company.

(3) No more than one-tenth of the nominal value of the company's allotted share capital is to be disregarded under subsection (2)(a).

For this purpose the allotted share capital is treated as not including shares disregarded under subsection (2)(b).

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(4) Shares disregarded under subsection (2) are treated as not forming part of the allotted share capital for the purposes of subsection (1)(a).

(5) A company must not be re-registered as a public company if it appears to the registrar that—

(a) the company has resolved to reduce its share capital,

(b) the reduction—

(i) is made under section 626 (reduction in connection with redenomination of share capital),

(ii) is supported by a solvency statement in accordance with section 643, or

(iii) has been confirmed by an order of the court under section 648, and

(c) the effect of the reduction is, or will be, that the nominal value of the company's allotted share capital is below the authorised minimum.

Modifications etc. (not altering text)

C119 Ss. 90-96 applied (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 3** (with art. 10)

C120 Ss. 91-93 applied (with modifications) (1.10.2009) by The Companies (Companies Authorised to Register) Regulations 2009 (S.I. 2009/2437), **reg. 9(3)** (with transitional provisions and savings in reg. 24)

C121 Ss. 90-96 applied (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 3**

92 Requirements as to net assets

(1) A company applying to re-register as a public company must obtain—

(a) a balance sheet prepared as at a date not more than seven months before the date on which the application is delivered to the registrar,

(b) an unqualified report by the company's auditor on that balance sheet, and

(c) a written statement by the company's auditor that in his opinion at the balance sheet date the amount of the company's net assets was not less than the aggregate of its called-up share capital and undistributable reserves.

(2) Between the balance sheet date and the date on which the application for re-registration is delivered to the registrar, there must be no change in the company's financial position that results in the amount of its net assets becoming less than the aggregate of its called-up share capital and undistributable reserves.

(3) In subsection (1)(b) an "unqualified report" means—

(a) if the balance sheet was prepared for a financial year of the company, a report stating without material qualification the auditor's opinion that the balance sheet has been properly prepared in accordance with the requirements of this Act;

(b) if the balance sheet was not prepared for a financial year of the company, a report stating without material qualification the auditor's opinion that the balance sheet has been properly prepared in accordance with the provisions of this Act which would have applied if it had been prepared for a financial year of the company.

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(4) For the purposes of an auditor's report on a balance sheet that was not prepared for a financial year of the company, the provisions of this Act apply with such modifications as are necessary by reason of that fact.

(5) For the purposes of subsection (3) a qualification is material unless the auditor states in his report that the matter giving rise to the qualification is not material for the purpose of determining (by reference to the company's balance sheet) whether at the balance sheet date the amount of the company's net assets was not less than the aggregate of its called-up share capital and undistributable reserves.

(6) In this Part "net assets" and "undistributable reserves" have the same meaning as in section 831 (net asset restriction on distributions by public companies).

Modifications etc. (not altering text)

C122 Ss. 90-96 applied (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 3** (with art. 10)

C123 Ss. 91-93 applied (with modifications) (1.10.2009) by The Companies (Companies Authorised to Register) Regulations 2009 (S.I. 2009/2437), **reg. 9(3)** (with transitional provisions and savings in reg. 24)

C124 Ss. 90-96 applied (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 3**

93 Recent allotment of shares for non-cash consideration

(1) This section applies where—

(a) shares are allotted by the company in the period between the date as at which the balance sheet required by section 92 is prepared and the passing of the resolution that the company should re-register as a public company, and

(b) the shares are allotted as fully or partly paid up as to their nominal value or any premium on them otherwise than in cash.

(2) The registrar shall not entertain an application by the company for re-registration as a public company unless—

(a) the requirements of section 593(1)(a) and (b) have been complied with (independent valuation of non-cash consideration; valuer's report to company not more than six months before allotment), or

(b) the allotment is in connection with—

(i) a share exchange (see subsections (3) to (5) below), or

(ii) a proposed merger with another company (see subsection (6) below).

(3) An allotment is in connection with a share exchange if—

(a) the shares are allotted in connection with an arrangement under which the whole or part of the consideration for the shares allotted is provided by—

(i) the transfer to the company allotting the shares of shares (or shares of a particular class) in another company, or

(ii) the cancellation of shares (or shares of a particular class) in another company; and

(b) the allotment is open to all the holders of the shares of the other company in question (or, where the arrangement applies only to shares of a particular

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class, to all the holders of the company's shares of that class) to take part in the arrangement in connection with which the shares are allotted.

(4) In determining whether a person is a holder of shares for the purposes of subsection (3), there shall be disregarded—

(a) shares held by, or by a nominee of, the company allotting the shares;

(b) shares held by, or by a nominee of—

(i) the holding company of the company allotting the shares,

(ii) a subsidiary of the company allotting the shares, or

(iii) a subsidiary of the holding company of the company allotting the shares.

(5) It is immaterial, for the purposes of deciding whether an allotment is in connection with a share exchange, whether or not the arrangement in connection with which the shares are allotted involves the issue to the company allotting the shares of shares (or shares of a particular class) in the other company.

(6) There is a proposed merger with another company if one of the companies concerned proposes to acquire all the assets and liabilities of the other in exchange for the issue of its shares or other securities to shareholders of the other (whether or not accompanied by a cash payment).

"Another company" includes any body corporate.

(7) For the purposes of this section—

(a) the consideration for an allotment does not include any amount standing to the credit of any of the company's reserve accounts, or of its profit and loss account, that has been applied in paying up (to any extent) any of the shares allotted or any premium on those shares; and

(b) "arrangement" means any agreement, scheme or arrangement, (including an arrangement sanctioned in accordance with—

(i) Part 26 **[**F22or 26A**]** of this Act (arrangements and reconstructions), or

(ii) section 110 of the Insolvency Act 1986 (c. 45) or Article 96 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) (liquidator in winding up accepting shares as consideration for sale of company's property)).

Textual Amendments

F22 Words in s. 93(7)(b)(i) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 32** (with ss. 2(2), 5(2))

Modifications etc. (not altering text)

C125 Ss. 90-96 applied (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 3** (with art. 10)

C126 Ss. 91-93 applied (with modifications) (1.10.2009) by The Companies (Companies Authorised to Register) Regulations 2009 (S.I. 2009/2437), **reg. 9(3)** (with transitional provisions and savings in reg. 24)

C127 Ss. 90-96 applied (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 3**

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

94 Application and accompanying documents

(1) An application for re-registration as a public company must contain—

(a) a statement of the company's proposed name on re-registration; and

(b) in the case of a company without a secretary, a statement of the company's proposed secretary (see section 95).

(2) The application must be accompanied by—

(a) a copy of the special resolution that the company should re-register as a public company (unless a copy has already been forwarded to the registrar under Chapter 3 of Part 3);

(b) a copy of the company's articles as proposed to be amended;

(c) a copy of the balance sheet and other documents referred to in section 92(1);

F23 …

(d) if section 93 applies (recent allotment of shares for non-cash consideration), a copy of the valuation report (if any) under subsection (2)(a) of that section**[**F24; and

(e) a statement of the aggregate amount paid up on the shares of the company on account of their nominal value.**]**

(3) The statement of compliance required to be delivered together with the application is a statement that the requirements of this Part as to re-registration as a public company have been complied with.

(4) The registrar may accept the statement of compliance as sufficient evidence that the company is entitled to be re-registered as a public company.

Textual Amendments

F23 Word in s. 94(2)(c) omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 98(2)(a)**, 164(1); S.I. 2016/321, reg. 6(f)

F24 S. 94(2)(e) and word inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 98(2)(b)**, 164(1); S.I. 2016/321, reg. 6(f)

Modifications etc. (not altering text)

C128 Ss. 90-96 applied (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 3** (with art. 10)

C129 Ss. 90-96 applied (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 3**

95 Statement of proposed secretary

(1) The statement of the company's proposed secretary must contain the required particulars of the person who is or the persons who are to be the secretary or joint secretaries of the company.

(2) The required particulars are the particulars that will be required to be stated in the company's register of secretaries (see sections 277 to 279).

(3) **[**F25The statement must also include a statement by the company that the person named as secretary, or each of the persons named as joint secretaries, has consented to act in the relevant capacity.**]**

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If all the partners in a firm are to be joint secretaries, consent may be given by one partner on behalf of all of them.

Textual Amendments

F25 Words in s. 95(3) substituted (10.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 100(3)**, 164(1) (with s. 100(6)); S.I. 2015/1689, reg. 4(b)

Modifications etc. (not altering text)

C130 Ss. 90-96 applied (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 3** (with art. 10)

C131 Ss. 90-96 applied (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 3**

96 Issue of certificate of incorporation on re-registration

(1) If on an application for re-registration as a public company the registrar is satisfied that the company is entitled to be so re-registered, the company shall be re-registered accordingly.

(2) The registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

(3) The certificate must state that it is issued on re-registration and the date on which it is issued.

(4) On the issue of the certificate—

(a) the company by virtue of the issue of the certificate becomes a public company,

(b) the changes in the company's name and articles take effect, and

(c) where the application contained a statement under section 95 (statement of proposed secretary), the person or persons named in the statement as secretary or joint secretary of the company are deemed to have been appointed to that office.

(5) The certificate is conclusive evidence that the requirements of this Act as to re-registration have been complied with.

Modifications etc. (not altering text)

C132 Ss. 90-96 applied (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 3** (with art. 10)

C133 Ss. 90-96 applied (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 3**

Public company becoming private

97 Re-registration of public company as private limited company

(1) A public company may be re-registered as a private limited company if—

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(a) a special resolution that it should be so re-registered is passed,

(b) the conditions specified below are met, and

(c) an application for re-registration is delivered to the registrar in accordance with section 100, together with—

(i) the other documents required by that section, and

(ii) a statement of compliance.

(2) The conditions are that—

(a) where no application under section 98 for cancellation of the resolution has been made—

(i) having regard to the number of members who consented to or voted in favour of the resolution, no such application may be made, or

(ii) the period within which such an application could be made has expired, or

(b) where such an application has been made—

(i) the application has been withdrawn, or

(ii) an order has been made confirming the resolution and a copy of that order has been delivered to the registrar.

(3) The company must make such changes—

(a) in its name, and

(b) in its articles,

as are necessary in connection with its becoming a private company limited by shares or, as the case may be, by guarantee.

98 Application to court to cancel resolution

(1) Where a special resolution by a public company to be re-registered as a private limited company has been passed, an application to the court for the cancellation of the resolution may be made—

(a) by the holders of not less in the aggregate than 5% in nominal value of the company's issued share capital or any class of the company's issued share capital (disregarding any shares held by the company as treasury shares);

(b) if the company is not limited by shares, by not less than 5% of its members; or

(c) by not less than 50 of the company's members;

but not by a person who has consented to or voted in favour of the resolution.

(2) The application must be made within 28 days after the passing of the resolution and may be made on behalf of the persons entitled to make it by such one or more of their number as they may appoint for the purpose.

(3) On the hearing of the application the court shall make an order either cancelling or confirming the resolution.

(4) The court may—

(a) make that order on such terms and conditions as it thinks fit,

(b) if it thinks fit adjourn the proceedings in order that an arrangement may be made to the satisfaction of the court for the purchase of the interests of dissentient members, and

(c) give such directions, and make such orders, as it thinks expedient for facilitating or carrying into effect any such arrangement.

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(5) The court's order may, if the court thinks fit—

(a) provide for the purchase by the company of the shares of any of its members and for the reduction accordingly of the company's capital; and

(b) make such alteration in the company's articles as may be required in consequence of that provision.

(6) The court's order may, if the court thinks fit, require the company not to make any, or any specified, amendments to its articles without the leave of the court.

(7) **[**[F26]In this section and section 99(3) "the court", in England and Wales, means the High Court**]**

Textual Amendments

F26 S. 98(7) inserted (22.4.14) by S.I. 1991/724, Sch. Pt. 1 (as amended by The High Court and County Court Jurisdiction (Amendment) Order 2014 (S.I. 2014/821), arts. 1, **2(10)(a)(ii)** (with art. 3)

Modifications etc. (not altering text)

C134 Ss. 98, 99 applied (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 4** (with art. 10)

C135 S. 98 applied (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 4(2)**

99 Notice to registrar of court application or order

(1) On making an application under section 98 (application to court to cancel resolution) the applicants, or the person making the application on their behalf, must immediately give notice to the registrar.

This is without prejudice to any provision of rules of court as to service of notice of the application.

(2) On being served with notice of any such application, the company must immediately give notice to the registrar.

(3) Within 15 days of the making of the court's order on the application, or such longer period as the court may at any time direct, the company must deliver to the registrar a copy of the order.

(4) If a company fails to comply with subsection (2) or (3) an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

Modifications etc. (not altering text)

C136 Ss. 98, 99 applied (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 4** (with art. 10)

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C137 S. 99 applied (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para.4(2)**

100 Application and accompanying documents

(1) An application for re-registration as a private limited company must contain a statement of the company's proposed name on re-registration.

(2) The application must be accompanied by—

(a) a copy of the resolution that the company should re-register as a private limited company (unless a copy has already been forwarded to the registrar under Chapter 3 of Part 3); and

(b) a copy of the company's articles as proposed to be amended.

(3) The statement of compliance required to be delivered together with the application is a statement that the requirements of this Part as to re-registration as a private limited company have been complied with.

(4) The registrar may accept the statement of compliance as sufficient evidence that the company is entitled to be re-registered as a private limited company.

101 Issue of certificate of incorporation on re-registration

(1) If on an application for re-registration as a private limited company the registrar is satisfied that the company is entitled to be so re-registered, the company shall be re-registered accordingly.

(2) The registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

(3) The certificate must state that it is issued on re-registration and the date on which it is issued.

(4) On the issue of the certificate—

(a) the company by virtue of the issue of the certificate becomes a private limited company, and

(b) the changes in the company's name and articles take effect.

(5) The certificate is conclusive evidence that the requirements of this Act as to re-registration have been complied with.

Private limited company becoming unlimited

102 Re-registration of private limited company as unlimited

(1) A private limited company may be re-registered as an unlimited company if—

(a) all the members of the company have assented to its being so re-registered,

(b) the condition specified below is met, and

(c) an application for re-registration is delivered to the registrar in accordance with section 103, together with—

(i) the other documents required by that section, and

(ii) a statement of compliance.

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(2) The condition is that the company has not previously been re-registered as limited.

(3) The company must make such changes in its name and its articles—

(a) as are necessary in connection with its becoming an unlimited company; and

(b) if it is to have a share capital, as are necessary in connection with its becoming an unlimited company having a share capital.

(4) For the purposes of this section—

(a) a trustee in bankruptcy of a member of the company is entitled, to the exclusion of the member, to assent to the company's becoming unlimited; and

(b) the personal representative of a deceased member of the company may assent on behalf of the deceased.

(5) In subsection (4)(a), "a trustee in bankruptcy of a member of the company" includes—

[[F27](a) a trustee or interim trustee in the sequestration under the Bankruptcy (Scotland) Act 2016 of the estate of a member of the company;**]**

(b) a trustee under a protected trustee deed (within the meaning of the Bankruptcy (Scotland) Act **[**[F28]2016**]**) granted by a member of the company.

Textual Amendments

F27 S. 102(5)(a) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 29(2)(a)**

F28 Word in s. 102(5)(b) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 29(2)(b)**

103 Application and accompanying documents

(1) An application for re-registration as an unlimited company must contain a statement of the company's proposed name on re-registration.

(2) The application must be accompanied by—

(a) the prescribed form of assent to the company's being registered as an unlimited company, authenticated by or on behalf of all the members of the company;

(b) a copy of the company's articles as proposed to be amended.

(3) The statement of compliance required to be delivered together with the application is a statement that the requirements of this Part as to re-registration as an unlimited company have been complied with.

(4) The statement must contain a statement by the directors of the company—

(a) that the persons by whom or on whose behalf the form of assent is authenticated constitute the whole membership of the company, and

(b) if any of the members have not authenticated that form themselves, that the directors have taken all reasonable steps to satisfy themselves that each person who authenticated it on behalf of a member was lawfully empowered to do so.

(5) The registrar may accept the statement of compliance as sufficient evidence that the company is entitled to be re-registered as an unlimited company.

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Commencement Information

I22 S. 103 wholly in force at 1.10.2009; s. 103 not in force at Royal Assent, see s. 1300; s. 103 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 103 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(g)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

104 Issue of certificate of incorporation on re-registration

(1) If on an application for re-registration of a private limited company as an unlimited company the registrar is satisfied that the company is entitled to be so re-registered, the company shall be re-registered accordingly.

(2) The registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

(3) The certificate must state that it is issued on re-registration and the date on which it is issued.

(4) On the issue of the certificate—

(a) the company by virtue of the issue of the certificate becomes an unlimited company, and

(b) the changes in the company's name and articles take effect.

(5) The certificate is conclusive evidence that the requirements of this Act as to re-registration have been complied with.

Unlimited private company becoming limited

105 Re-registration of unlimited company as limited

(1) An unlimited company may be re-registered as a private limited company if—

(a) a special resolution that it should be so re-registered is passed,

(b) the condition specified below is met, and

(c) an application for re-registration is delivered to the registrar in accordance with section 106, together with—

(i) the other documents required by that section, and

(ii) a statement of compliance.

(2) The condition is that the company has not previously been re-registered as unlimited.

(3) The special resolution must state whether the company is to be limited by shares or by guarantee.

(4) The company must make such changes—

(a) in its name, and

(b) in its articles,

as are necessary in connection with its becoming a company limited by shares or, as the case may be, by guarantee.

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106 Application and accompanying documents

(1) An application for re-registration as a limited company must contain a statement of the company's proposed name on re-registration.

(2) The application must be accompanied by—

(a) a copy of the resolution that the company should re-register as a private limited company (unless a copy has already been forwarded to the registrar under Chapter 3 of Part 3);

(b) if the company is to be limited by guarantee, a statement of guarantee;

(c) a copy of the company's articles as proposed to be amended.

(3) The statement of guarantee required to be delivered in the case of a company that is to be limited by guarantee must state that each member undertakes that, if the company is wound up while he is a member, or within one year after he ceases to be a member, he will contribute to the assets of the company such amount as may be required for—

(a) payment of the debts and liabilities of the company contracted before he ceases to be a member,

(b) payment of the costs, charges and expenses of winding up, and

(c) adjustment of the rights of the contributories among themselves,

not exceeding a specified amount.

(4) The statement of compliance required to be delivered together with the application is a statement that the requirements of this Part as to re-registration as a limited company have been complied with.

(5) The registrar may accept the statement of compliance as sufficient evidence that the company is entitled to be re-registered as a limited company.

107 Issue of certificate of incorporation on re-registration

(1) If on an application for re-registration of an unlimited company as a limited company the registrar is satisfied that the company is entitled to be so re-registered, the company shall be re-registered accordingly.

(2) The registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

(3) The certificate must state that it is issued on re-registration and the date on which it is so issued.

(4) On the issue of the certificate—

(a) the company by virtue of the issue of the certificate becomes a limited company, and

(b) the changes in the company's name and articles take effect.

(5) The certificate is conclusive evidence that the requirements of this Act as to re-registration have been complied with.

108 Statement of capital required where company already has share capital

(1) A company which on re-registration under section 107 already has allotted share capital must within 15 days after the re-registration deliver a statement of capital to the registrar.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(2) This does not apply if the information which would be included in the statement has already been sent to the registrar in—

(a) a statement of capital and initial shareholdings (see section 10), or

[F29(b) (if different) the last statement of capital sent by the company.**]**

(3) The statement of capital must state with respect to the company's share capital on re-registration—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

[F30(ba) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and**]**

(c) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class, F31...

F31(d) . . . . . .

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

(a) the company, and

(b) every officer of the company who is in default.

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

Textual Amendments

F29 S. 108(2)(b) substituted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 93(4)**, 164(1); S.I. 2016/321, reg. 6(b)

F30 S. 108(3)(ba) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 4(a)**; S.I. 2016/321, reg. 6(e)

F31 S. 108(3)(d) and word omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 4(b)**; S.I. 2016/321, reg. 6(e)

Commencement Information

I23 S. 108 wholly in force at 1.10.2009; s. 108 not in force at Royal Assent, see s. 1300; s. 108 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 108 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(g)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Public company becoming private and unlimited

109 Re-registration of public company as private and unlimited

(1) A public company limited by shares may be re-registered as an unlimited private company with a share capital if—

(a) all the members of the company have assented to its being so re-registered,

(b) the condition specified below is met, and

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(c) an application for re-registration is delivered to the registrar in accordance with section 110, together with—

(i) the other documents required by that section, and

(ii) a statement of compliance.

(2) The condition is that the company has not previously been re-registered—

(a) as limited, or

(b) as unlimited.

(3) The company must make such changes—

(a) in its name, and

(b) in its articles,

as are necessary in connection with its becoming an unlimited private company.

(4) For the purposes of this section—

(a) a trustee in bankruptcy of a member of the company is entitled, to the exclusion of the member, to assent to the company's re-registration; and

(b) the personal representative of a deceased member of the company may assent on behalf of the deceased.

(5) In subsection (4)(a), "a trustee in bankruptcy of a member of the company" includes—

[F32(a) a trustee or interim trustee in the sequestration under the Bankruptcy (Scotland) Act 2016 of the estate of a member of the company;**]**

(b) a trustee under a protected trustee deed (within the meaning of the Bankruptcy (Scotland) Act **[**F33**]**2016**]**) granted by a member of the company.

Textual Amendments

F32 S. 109(5)(a) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 29(3)(a)**

F33 Word in s. 109(5)(b) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 29(3)(b)**

110 Application and accompanying documents

(1) An application for re-registration of a public company as an unlimited private company must contain a statement of the company's proposed name on re-registration.

(2) The application must be accompanied by—

(a) the prescribed form of assent to the company's being registered as an unlimited company, authenticated by or on behalf of all the members of the company, and

(b) a copy of the company's articles as proposed to be amended.

(3) The statement of compliance required to be delivered together with the application is a statement that the requirements of this Part as to re-registration as an unlimited private company have been complied with.

(4) The statement must contain a statement by the directors of the company—

(a) that the persons by whom or on whose behalf the form of assent is authenticated constitute the whole membership of the company, and

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(b) if any of the members have not authenticated that form themselves, that the directors have taken all reasonable steps to satisfy themselves that each person who authenticated it on behalf of a member was lawfully empowered to do so.

(5) The registrar may accept the statement of compliance as sufficient evidence that the company is entitled to be re-registered as an unlimited private company.

Commencement Information

I24 S. 110 wholly in force at 1.10.2009; s. 110 not in force at Royal Assent, see s. 1300; s. 110 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 110 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(g)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

111 Issue of certificate of incorporation on re-registration

(1) If on an application for re-registration of a public company as an unlimited private company the registrar is satisfied that the company is entitled to be so re-registered, the company shall be re-registered accordingly.

(2) The registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

(3) The certificate must state that it is issued on re-registration and the date on which it is so issued.

(4) On the issue of the certificate—

(a) the company by virtue of the issue of the certificate becomes an unlimited private company, and

(b) the changes in the company's name and articles take effect.

(5) The certificate is conclusive evidence that the requirements of this Act as to re-registration have been complied with.

PART 8

A COMPANY'S MEMBERS

Modifications etc. (not altering text)

C138 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

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CHAPTER 1

THE MEMBERS OF A COMPANY

112 The members of a company

(1) The subscribers of a company's memorandum are deemed to have agreed to become members of the company, and on its registration become members and must be entered as such in its register of members.

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, is a member of the company.

[F34(3) Where an election under section 128B is in force in respect of a company—

(a) the requirement in subsection (1) to enter particulars of members in the company's register of members does not apply, and

(b) subsection (2) has effect as if the reference to a person whose name is entered in the company's register of members were a reference to a person with respect to whom the following steps have been taken—

(i) the person's name has been delivered to the registrar under section 128E, and

(ii) the document containing that information has been registered by the registrar.**]**

Textual Amendments

F34 S. 112(3) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 13**; S.I. 2016/321, **reg. 6(c)**

Modifications etc. (not altering text)

C139 S. 112(1) applied by Commonhold and Leasehold Reform Act 2002 (c. 15), Sch. 3 para. 15(1) (as substituted) (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 195(11)** (with art. 10))

C140 S. 112(1) excluded by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), **Sch. 4 para. 7** (as amended (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), reg. {40(7)})

C141 S. 112(2) excluded by Commonhold and Leasehold Reform Act 2002 (c. 15), Sch. 3 para. 15(2) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 195(11)** (with art. 10))

CHAPTER 2

REGISTER OF MEMBERS

General

[F35112A Alternative method of record-keeping

This Chapter must be read with Chapter 2A (which allows for an alternative method of record-keeping in the case of private companies).**]**

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Textual Amendments

F35 S. 112A inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 2**; S.I. 2016/321, reg. 6(c)

113 Register of members

(1) Every company must keep a register of its members.

(2) There must be entered in the register—

(a) the names and addresses of the members,

(b) the date on which each person was registered as a member, and

(c) the date at which any person ceased to be a member.

(3) In the case of a company having a share capital, there must be entered in the register, with the names and addresses of the members, a statement of—

(a) the shares held by each member, distinguishing each share—

(i) by its number (so long as the share has a number), and

(ii) where the company has more than one class of issued shares, by its class, and

(b) the amount paid or agreed to be considered as paid on the shares of each member.

(4) If the company has converted any of its shares into stock, and given notice of the conversion to the registrar, the register of members must show the amount and class of stock held by each member instead of the amount of shares and the particulars relating to shares specified above.

(5) In the case of joint holders of shares or stock in a company, the company's register of members must state the names of each joint holder.

In other respects joint holders are regarded for the purposes of this Chapter as a single member (so that the register must show a single address).

(6) In the case of a company that does not have a share capital but has more than one class of members, there must be entered in the register, with the names and addresses of the members, a statement of the class to which each member belongs.

(7) If a company makes default in complying with this section an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

114 Register to be kept available for inspection

(1) A company's register of members must be kept available for inspection—

(a) at its registered office, or

(b) at a place specified in regulations under section 1136.

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(2) A company must give notice to the registrar of the place where its register of members is kept available for inspection and of any change in that place.

(3) No such notice is required if the register has, at all times since it came into existence (or, in the case of a register in existence on the relevant date, at all times since then) been kept available for inspection at the company's registered office.

(4) The relevant date for the purposes of subsection (3) is—

(a) 1st July 1948 in the case of a company registered in Great Britain, and

(b) 1st April 1961 in the case of a company registered in Northern Ireland.

(5) If a company makes default for 14 days in complying with subsection (2), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

Modifications etc. (not altering text)

C142 S. 114: power to modify conferred (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), **ss. 39(1)**, 40(e), 49(1) (with ss. 2(2), 5(2), 39(8)(9))

C143 S. 114 modified (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **11(a)(i)**

C144 S. 114(5) modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **6**

115 Index of members

(1) Every company having more than 50 members must keep an index of the names of the members of the company, unless the register of members is in such a form as to constitute in itself an index.

(2) The company must make any necessary alteration in the index within 14 days after the date on which any alteration is made in the register of members.

(3) The index must contain, in respect of each member, a sufficient indication to enable the account of that member in the register to be readily found.

(4) The index must be at all times kept available for inspection at the same place as the register of members.

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

(a) the company, and

(b) every officer of the company who is in default.

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

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116 Rights to inspect and require copies

(1) The register and the index of members' names must be open to the inspection—

(a) of any member of the company without charge, and

(b) of any other person on payment of such fee as may be prescribed.

(2) Any person may require a copy of a company's register of members, or of any part of it, on payment of such fee as may be prescribed.

(3) A person seeking to exercise either of the rights conferred by this section must make a request to the company to that effect.

(4) The request must contain the following information—

(a) in the case of an individual, his name and address;

(b) in the case of an organisation, the name and address of an individual responsible for making the request on behalf of the organisation;

(c) the purpose for which the information is to be used; and

(d) whether the information will be disclosed to any other person, and if so—

(i) where that person is an individual, his name and address,

(ii) where that person is an organisation, the name and address of an individual responsible for receiving the information on its behalf, and

(iii) the purpose for which the information is to be used by that person.

Commencement Information

I25 S. 116 wholly in force at 1.10.2007; s. 116 not in force at Royal Assent, see s. 1300; s. 116 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 116 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(b)** (subject to transitional adaptations in Sch. 1 and with savings in art. 12 and transitional provisions and savings in Sch. 3 para. 1)

117 Register of members: response to request for inspection or copy

(1) Where a company receives a request under section 116 (register of members: right to inspect and require copy), it must within five working days either—

(a) comply with the request, or

(b) apply to the court.

(2) If it applies to the court it must notify the person making the request.

(3) If on an application under this section the court is satisfied that the inspection or copy is not sought for a proper purpose—

(a) it shall direct the company not to comply with the request, and

(b) it may further order that the company's costs (in Scotland, expenses) on the application be paid in whole or in part by the person who made the request, even if he is not a party to the application.

(4) If the court makes such a direction and it appears to the court that the company is or may be subject to other requests made for a similar purpose (whether made by the same person or different persons), it may direct that the company is not to comply with any such request.

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The order must contain such provision as appears to the court appropriate to identify the requests to which it applies.

(5) If on an application under this section the court does not direct the company not to comply with the request, the company must comply with the request immediately upon the court giving its decision or, as the case may be, the proceedings being discontinued.

118 Register of members: refusal of inspection or default in providing copy

(1) If an inspection required under section 116 (register of members: right to inspect and require copy) is refused or default is made in providing a copy required under that section, otherwise than in accordance with an order of the court, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

(3) In the case of any such refusal or default the court may by order compel an immediate inspection or, as the case may be, direct that the copy required be sent to the person requesting it.

119 Register of members: offences in connection with request for or disclosure of information

(1) It is an offence for a person knowingly or recklessly to make in a request under section 116 (register of members: right to inspect or require copy) a statement that is misleading, false or deceptive in a material particular.

(2) It is an offence for a person in possession of information obtained by exercise of either of the rights conferred by that section—

(a) to do anything that results in the information being disclosed to another person, or

(b) to fail to do anything with the result that the information is disclosed to another person,

knowing, or having reason to suspect, that person may use the information for a purpose that is not a proper purpose.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

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120 Information as to state of register and index

(1) When a person inspects the register, or the company provides him with a copy of the register or any part of it, the company must inform him of the most recent date (if any) on which alterations were made to the register and **[**[F36]whether there are**]** further alterations to be made.

(2) When a person inspects the index of members' names, the company must inform him whether there is any alteration to the register that is not reflected in the index.

(3) If a company fails to provide the information required under subsection (1) or (2), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

Textual Amendments

F36 Words in s. 120(1) substituted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 3 para. 6**; S.I. 2015/1329, reg. 3(a); S.I. 2015/2029, reg. 4(a)

121 Removal of entries relating to former members

An entry relating to a former member of the company may be removed from the register after the expiration of ten years from the date on which he ceased to be a member.

Special cases

122 Share warrants

[[F37](1) Until a share warrant issued by a company is surrendered the following are deemed to be the particulars required to be entered in the register of members in respect of the warrant—

(a) the fact of the issue of the warrant,

(b) a statement of the shares included in the warrant, distinguishing each share by its number so long as the share has a number, and

(c) the date of the issue of the warrant.**]**

(3) The bearer of a share warrant may, if the articles of the company so provide, be deemed a member of the company within the meaning of this Act, either to the full extent or for any purposes defined in the articles.

[F38](4) . . . . . .

(5) The company is responsible for any loss incurred by any person by reason of the company entering in the register the name of a bearer of a share warrant in respect of the shares specified in it without the warrant being surrendered and cancelled.

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(6) On the surrender of a share warrant, the date of the surrender must be entered in the register.

Textual Amendments

F37 S. 122(1) substituted for s. 122(1)(2) (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 23(a)**

F38 S. 122(4) omitted (26.5.2015) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 23(b)**

123 Single member companies

(1) If a limited company is formed under this Act with only one member there shall be entered in the company's register of members, with the name and address of the sole member, a statement that the company has only one member.

(2) If the number of members of a limited company falls to one, or if an unlimited company with only one member becomes a limited company on re-registration, there shall upon the occurrence of that event be entered in the company's register of members, with the name and address of the sole member—

(a) a statement that the company has only one member, and

(b) the date on which the company became a company having only one member.

(3) If the membership of a limited company increases from one to two or more members, there shall upon the occurrence of that event be entered in the company's register of members, with the name and address of the person who was formerly the sole member—

(a) a statement that the company has ceased to have only one member, and

(b) the date on which that event occurred.

(4) If a company makes default in complying with this section, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

124 Company holding its own shares as treasury shares

(1) Where a company purchases its own shares in circumstances in which section 724 (treasury shares) applies—

(a) the requirements of section 113 (register of members) need not be complied with if the company cancels all of the shares forthwith after the purchase, and

(b) if the company does not cancel all of the shares forthwith after the purchase, any share that is so cancelled shall be disregarded for the purposes of that section.

(2) Subject to subsection (1), where a company holds shares as treasury shares the company must be entered in the register as the member holding those shares.

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Supplementary

125 Power of court to rectify register

(1) If—

(a) the name of any person is, without sufficient cause, entered in or omitted from a company's register of members, or

(b) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member,

the person aggrieved, or any member of the company, or the company, may apply to the court for rectification of the register.

(2) The court may either refuse the application or may order rectification of the register and payment by the company of any damages sustained by any party aggrieved.

(3) On such an application the court may decide any question relating to the title of a person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand, and generally may decide any question necessary or expedient to be decided for rectification of the register.

(4) In the case of a company required by this Act to send a list of its members to the registrar of companies, the court, when making an order for rectification of the register, shall by its order direct notice of the rectification to be given to the registrar.

126 Trusts not to be entered on register

No notice of any trust, expressed, implied or constructive, shall be entered on the register of members of a company registered in England and Wales or Northern Ireland, or be receivable by the registrar.

127 Register to be evidence

The register of members is prima facie evidence of any matters which are by this Act directed or authorised to be inserted in it **[**[F39], except for any matters of which the central register is prima facie evidence by virtue of section 128H**]**.

Textual Amendments

F39 Words in s. 127 inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 14**; S.I. 2016/321, reg. 6(c)

128 Time limit for claims arising from entry in register

(1) Liability incurred by a company—

(a) from the making or deletion of an entry in the register of members, or

(b) from a failure to make or delete any such entry,

is not enforceable more than ten years after the date on which the entry was made or deleted or, as the case may be, the failure first occurred.

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(2) This is without prejudice to any lesser period of limitation (and, in Scotland, to any rule that the obligation giving rise to the liability prescribes before the expiry of that period).

[F40CHAPTER 2A

OPTION TO KEEP INFORMATION ON CENTRAL REGISTER

Textual Amendments

F40 Pt. 8 Ch. 2A inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 3**; S.I. 2016/321, reg. 6(c)

128A Introduction

(1) This Chapter sets out rules allowing private companies to keep information on the register kept by the registrar instead of entering it in their register of members.

(2) The register kept by the registrar (see section 1080) is referred to in this Chapter as "the central register".

128B Right to make an election

(1) An election may be made under this section—

(a) by the subscribers wishing to form a private company under this Act, or

(b) by the private company itself once it is formed and registered.

(2) In the latter case, the election is of no effect unless, before it is made—

(a) all the members of the company have assented to the making of the election, and

(b) any overseas branch registers that the company was keeping under Chapter 3 have been discontinued and all the entries in those registers transferred to the company's register of members in accordance with section 135.

(3) An election under this section is made by giving notice of election to the registrar.

(4) If the notice is given by subscribers wishing to form a private company—

(a) it must be given when the documents required to be delivered under section 9 are delivered to the registrar, and

(b) it must be accompanied by a statement containing all the information that—

(i) would be required (in the absence of the notice) to be entered in the company's register of members on incorporation of the company, and

(ii) is not otherwise included in the documents delivered under section 9.

(5) If the notice is given by the company, it must be accompanied by—

(a) a statement by the company—

(i) that all the members of the company have assented to the making of the election, and

(ii) if the company was keeping any overseas branch registers, that all such registers have been discontinued and all the entries in them

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transferred to the company's register of members in accordance with section 135, and

(b) a statement containing all the information that is required to be contained in the company's register of members as at the date of the notice in respect of matters that are current as at that date.

(6) The company must where necessary update the statement sent under subsection (5)(b) to ensure that the final version delivered to the registrar contains all the information that is required to be contained in the company's register of members as at the time immediately before the election takes effect (see section 128C) in respect of matters that are current as at that time.

(7) The obligation in subsection (6) to update the statement includes an obligation to rectify it (where necessary) in consequence of the company's register of members being rectified (whether before or after the election takes effect).

(8) If default is made in complying with subsection (6), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

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

(10) A reference in this Chapter to matters that are current as at a given date or time is a reference to—

(a) persons who are members of the company as at that date or time, and

(b) any other matters that are current as at that date or time.

128C Effective date of election

(1) An election made under section 128B takes effect when the notice of election is registered by the registrar.

(2) The election remains in force until either—

(a) the company ceases to be a private company, or

(b) a notice of withdrawal sent by the company under section 128J is registered by the registrar,

whichever occurs first.

128D Effect of election on obligations under Chapter 2

(1) The effect of an election under section 128B on a company's obligations under Chapter 2 is as follows.

(2) The company's obligation to maintain a register of members does not apply with respect to the period when the election is in force.

(3) This means that, during that period—

(a) the company must continue to keep a register of members in accordance with Chapter 2 (a "historic" register) containing all the information that was

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required to be stated in that register as at the time immediately before the election took effect, but

(b) the company does not have to update that register to reflect any changes that occur after that time.

(4) Subsections (2) and (3) apply to the index of members (if the company is obliged to keep an index of members) as they apply to the register of members.

(5) The provisions of Chapter 2 (including the rights to inspect or require copies of the register and to inspect the index) continue to apply to the historic register and, if applicable, the historic index during the period when the election is in force.

(6) The company must place a note in its historic register—

(a) stating that an election under section 128B is in force,

(b) recording when that election took effect, and

(c) indicating that up-to-date information about its members is available for public inspection on the central register.

(7) Subsections (7) and (8) of section 113 apply if a company makes default in complying with subsection (6) as they apply if a company makes default in complying with that section.

(8) The obligations under this section with respect to a historic register and historic index do not apply in a case where the election was made by subscribers wishing to form a private company.

128E Duty to notify registrar of changes

(1) The duty under subsection (2) applies during the period when an election under section 128B is in force.

(2) The company must deliver to the registrar any relevant information that the company would during that period have been obliged under this Act to enter in its register of members, had the election not been in force.

(3) "Relevant information" means information other than—

(a) the date mentioned in section 113(2)(b) (date when person registered as member),

(b) the date mentioned in section 123(3)(b) (date when membership of limited company increases from one to two or more members), and

(c) the dates mentioned in the following provisions, but only in cases where the date to be recorded in the central register is to be the date on which the document containing information of the relevant change is registered by the registrar—

(i) section 113(2)(c) (date when person ceases to be member),

(ii) section 123(2)(b) (date when company becomes single member company).

(4) The relevant information must be delivered as soon as reasonably practicable after the company becomes aware of it and, in any event, no later than the time by which the company would have been required to enter the information in its register of members.

(5) In a case of the kind described in subsection (3)(c), the company must, when it delivers information under subsection (2) of the relevant change, indicate to the registrar that,

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in accordance with section 1081(1A), the date to be recorded in the central register is to be the date on which the document containing that information is registered by the registrar.

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

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

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

128F Information as to state of central register

(1) When a person inspects or requests a copy of material on the central register relating to a company in respect of which an election under section 128B is in force, the person may ask the company to confirm that all information that the company is required to deliver to the registrar under this Chapter has been delivered.

(2) If a company fails to respond to a request under subsection (1), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

128G Power of court to order company to remedy default or delay

(1) This section applies if—

(a) the name of a person is without sufficient cause included in, or omitted from, information that a company delivers to the registrar under this Chapter concerning its members, or

(b) default is made or unnecessary delay takes place in informing the registrar under this Chapter of—

(i) the name of a person who is to be a member of the company, or

(ii) the fact that a person has ceased or is to cease to be a member of the company.

(2) The person aggrieved, or any member of the company, or the company, may apply to the court for an order—

(a) requiring the company to deliver to the registrar the information (or statements) necessary to rectify the position, and

(b) where applicable, requiring the registrar to record under section 1081(1A) the date determined by the court.

(3) The court may either refuse the application or may make the order and order the company to pay any damages sustained by any party aggrieved.

(4) On such an application the court may decide—

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(a) any question relating to the title of a person who is a party to the application to have the person's name included in or omitted from information delivered to the registrar under this Chapter about the company's members, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand, and

(b) any question necessary or expedient to be decided for rectifying the position.

(5) Nothing in this section affects a person's rights under section 1095 or 1096 (rectification of register on application to registrar or under court order).

128H Central register to be evidence

(1) The central register is prima facie evidence of any matters about which a company is required to deliver information to the registrar under this Chapter.

(2) Subsection (1) does not apply to information to be included in a statement under section 128B(5)(b) or in any updated statement under section 128B(6).

128I Time limits for claims arising from delivery to registrar

(1) Liability incurred by a company—

(a) from the delivery to the registrar of information under this Chapter, or

(b) from a failure to deliver any such information,

is not enforceable more than 10 years after the date on which the information was delivered or, as the case may be, the failure first occurred.

(2) This is without prejudice to any lesser period of limitation (and, in Scotland, to any rule that the obligation giving rise to the liability prescribes before the expiry of that period).

128J Withdrawing the election

(1) A company may withdraw an election made by or in respect of it under section 128B.

(2) Withdrawal is achieved by giving notice of withdrawal to the registrar.

(3) The withdrawal takes effect when the notice is registered by the registrar.

(4) The effect of withdrawal is that the company's obligation under Chapter 2 to maintain a register of members applies from then on with respect to the period going forward.

(5) This means that, when the withdrawal takes effect—

(a) the company must enter in its register of members all the information that is required to be contained in that register in respect of matters that are current as at that time,

(b) the company must also retain in its register all the information that it was required under section 128D(3)(a) to keep in a historic register while the election was in force, but

(c) the company is not required to enter in its register information relating to the period when the election was in force that is no longer current.

(6) The company must place a note in its register of members—

(a) stating that the election under section 128B has been withdrawn,

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(b) recording when that withdrawal took effect, and

(c) indicating that information about its members relating to the period when the election was in force that is no longer current is available for public inspection on the central register.

(7) Subsections (7) and (8) of section 113 apply if a company makes default in complying with subsection (6) as they apply if a company makes default in complying with that section.

128K Power to extend option to public companies

(1) The Secretary of State may by regulations amend this Act—

(a) to extend sections 128A to 128J (with or without modification) to public companies or public companies of a class specified in the regulations, and

(b) to make such other amendments as the Secretary of State thinks fit in consequence of that extension.

(2) Regulations under this section are subject to affirmative resolution procedure.**]**

CHAPTER 3

OVERSEAS BRANCH REGISTERS

129 Overseas branch registers

(1) A company having a share capital may, if it transacts business in a country or territory to which this Chapter applies, cause to be kept there a branch register of members resident there (an "overseas branch register").

(2) This Chapter applies to—

(a) any part of Her Majesty's dominions outside the United Kingdom, the Channel Islands and the Isle of Man, and

(b) the countries or territories listed below.

Bangladesh	Malaysia
Cyprus	Malta
Dominica	Nigeria
The Gambia	Pakistan
Ghana	Seychelles
Guyana	Sierra Leone
The Hong Kong Special Administrative Region of the People's Republic of China	Singapore
India	South Africa
Ireland	Sri Lanka
Kenya	Swaziland

Kiribati	Trinidad and Tobago
Lesotho	Uganda
Malawi	Zimbabwe

(3) The Secretary of State may make provision by regulations as to the circumstances in which a company is to be regarded as keeping a register in a particular country or territory.

(4) Regulations under this section are subject to negative resolution procedure.

(5) References—

(a) in any Act or instrument (including, in particular, a company's articles) to a dominion register, or

(b) in articles registered before 1st November 1929 to a colonial register,

are to be read (unless the context otherwise requires) as a reference to an overseas branch register kept under this section.

[F41(6) A company's right under subsection (1) to keep an overseas branch register does not apply during or with respect to any period when an election is in force in respect of the company under section 128B.**]**

Textual Amendments

F41 S. 129(6) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 4**; S.I. 2016/321, reg. 6(c)

Commencement Information

I26 S. 129 wholly in force at 1.10.2009; s. 129 not in force at Royal Assent, see s. 1300; s. 129 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 129 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(h)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

130 Notice of opening of overseas branch register

(1) A company that begins to keep an overseas branch register must give notice to the registrar within 14 days of doing so, stating the country or territory in which the register is kept.

(2) If default is made in complying with subsection (1), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

131 Keeping of overseas branch register

(1) An overseas branch register is regarded as part of the company's register of members ("the main register").

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(2) The Secretary of State may make provision by regulations modifying any provision of Chapter 2 (register of members) as it applies in relation to an overseas branch register.

(3) Regulations under this section are subject to negative resolution procedure.

(4) Subject to the provisions of this Act, a company may by its articles make such provision as it thinks fit as to the keeping of overseas branch registers.

Commencement Information

I27 S. 131 wholly in force at 1.10.2009; s. 131 not in force at Royal Assent, see s. 1300; s. 131 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 131 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(h)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

132 Register or duplicate to be kept available for inspection in UK

(1) A company that keeps an overseas branch register must keep available for inspection—

(a) the register, or

(b) a duplicate of the register duly entered up from time to time,

at the place in the United Kingdom where the company's main register is kept available for inspection.

(2) Any such duplicate is treated for all purposes of this Act as part of the main register.

(3) If default is made in complying with subsection (1), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

133 Transactions in shares registered in overseas branch register

(1) Shares registered in an overseas branch register must be distinguished from those registered in the main register.

(2) No transaction with respect to shares registered in an overseas branch register may be registered in any other register.

(3) An instrument of transfer of a share registered in an overseas branch register—

(a) is regarded as a transfer of property situated outside the United Kingdom, and

(b) unless executed in a part of the United Kingdom, is exempt from stamp duty.

134 Jurisdiction of local courts

(1) A competent court in a country or territory where an overseas branch register is kept may exercise the same jurisdiction as is exercisable by a court in the United Kingdom—

(a) to rectify the register (see section 125), or

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(b) in relation to a request for inspection or a copy of the register (see section 117).

(2) The offences—

(a) of refusing inspection or failing to provide a copy of the register (see section 118), and

(b) of making a false, misleading or deceptive statement in a request for inspection or a copy (see section 119),

may be prosecuted summarily before any tribunal having summary criminal jurisdiction in the country or territory where the register is kept.

(3) This section extends only to those countries and territories to which paragraph 3 of Schedule 14 to the Companies Act 1985 (c. 6) (which made similar provision) extended immediately before the coming into force of this Chapter.

135 Discontinuance of overseas branch register

(1) A company may discontinue an overseas branch register.

(2) If it does so all the entries in that register must be transferred—

(a) to some other overseas branch register kept in the same country or territory, or

(b) to the main register.

(3) The company must give notice to the registrar within 14 days of the discontinuance.

(4) If default is made in complying with subsection (3), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

CHAPTER 4

PROHIBITION ON SUBSIDIARY BEING MEMBER OF ITS HOLDING COMPANY

General prohibition

136 Prohibition on subsidiary being a member of its holding company

(1) Except as provided by this Chapter—

(a) a body corporate cannot be a member of a company that is its holding company, and

(b) any allotment or transfer of shares in a company to its subsidiary is void.

(2) The exceptions are provided for in—

section 138 (subsidiary acting as personal representative or trustee), and

section 141 (subsidiary acting as authorised dealer in securities).

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Modifications etc. (not altering text)

C145 S. 136 excluded by Commonhold and Leasehold Reform Act 2002 (c. 15), Sch. 3 para. 15(2) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 195(11)** (with art. 10)

137 Shares acquired before prohibition became applicable

(1) Where a body corporate became a holder of shares in a company—

(a) before the relevant date, or

(b) on or after that date and before the commencement of this Chapter in circumstances in which the prohibition in section 23(1) of the Companies Act 1985 or Article 33(1) of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)) (or any corresponding earlier enactment), as it then had effect, did not apply, or

(c) on or after the commencement of this Chapter in circumstances in which the prohibition in section 136 did not apply,

it may continue to be a member of the company.

(2) The relevant date for the purposes of subsection (1)(a) is—

(a) 1st July 1948 in the case of a company registered in Great Britain, and

(b) 1st April 1961 in the case of a company registered in Northern Ireland.

(3) So long as it is permitted to continue as a member of a company by virtue of this section, an allotment to it of fully paid shares in the company may be validly made by way of capitalisation of reserves of the company.

(4) But, so long as the prohibition in section 136 would (apart from this section) apply, it has no right to vote in respect of the shares mentioned in subsection (1) above, or any shares allotted as mentioned in subsection (3) above, on a written resolution or at meetings of the company or of any class of its members.

Modifications etc. (not altering text)

C146 S. 137(3)(4) applied (with modifications) (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 4 para. 1**; 2020 c. 1, **Sch. 5 para. 1(1)**

Subsidiary acting as personal representative or trustee

138 Subsidiary acting as personal representative or trustee

(1) The prohibition in section 136 (prohibition on subsidiary being a member of its holding company) does not apply where the subsidiary is concerned only—

(a) as personal representative, or

(b) as trustee,

unless, in the latter case, the holding company or a subsidiary of it is beneficially interested under the trust.

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(2) For the purpose of ascertaining whether the holding company or a subsidiary is so interested, there shall be disregarded—

(a) any interest held only by way of security for the purposes of a transaction entered into by the holding company or subsidiary in the ordinary course of a business that includes the lending of money;

(b) any interest within—

section 139 (interests to be disregarded: residual interest under pension scheme or employees' share scheme), or

section 140 (interests to be disregarded: employer's rights of recovery under pension scheme or employees' share scheme);

(c) any rights that the company or subsidiary has in its capacity as trustee, including in particular—

(i) any right to recover its expenses or be remunerated out of the trust property, and

(ii) any right to be indemnified out of the trust property for any liability incurred by reason of any act or omission in the performance of its duties as trustee.

139 Interests to be disregarded: residual interest under pension scheme or employees' share scheme

(1) Where shares in a company are held on trust for the purposes of a pension scheme or employees' share scheme, there shall be disregarded for the purposes of section 138 any residual interest that has not vested in possession.

(2) A "residual interest" means a right of the company or subsidiary ("the residual beneficiary") to receive any of the trust property in the event of—

(a) all the liabilities arising under the scheme having been satisfied or provided for, or

(b) the residual beneficiary ceasing to participate in the scheme, or

(c) the trust property at any time exceeding what is necessary for satisfying the liabilities arising or expected to arise under the scheme.

(3) In subsection (2)—

(a) the reference to a right includes a right dependent on the exercise of a discretion vested by the scheme in the trustee or another person, and

(b) the reference to liabilities arising under a scheme includes liabilities that have resulted, or may result, from the exercise of any such discretion.

(4) For the purposes of this section a residual interest vests in possession—

(a) in a case within subsection (2)(a), on the occurrence of the event mentioned there (whether or not the amount of the property receivable pursuant to the right is ascertained);

(b) in a case within subsection (2)(b) or (c), when the residual beneficiary becomes entitled to require the trustee to transfer to him any of the property receivable pursuant to the right.

(5) In this section "pension scheme" means a scheme for the provision of benefits consisting of or including relevant benefits for or in respect of employees or former employees.

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(6) In subsection (5)—

(a) "relevant benefits" means any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death or in anticipation of retirement or, in connection with past service, after retirement or death; and

(b) "employee" shall be read as if a director of a company were employed by it.

140 Interests to be disregarded: employer's rights of recovery under pension scheme or employees' share scheme

(1) Where shares in a company are held on trust for the purposes of a pension scheme or employees' share scheme, there shall be disregarded for the purposes of section 138 any charge or lien on, or set-off against, any benefit or other right or interest under the scheme for the purpose of enabling the employer or former employer of a member of the scheme to obtain the discharge of a monetary obligation due to him from the member.

(2) **[**F42In the case of a trust for the purposes of a pension scheme there shall also be disregarded any right to receive from the trustee of the scheme, or as trustee of the scheme to retain, an amount that can be recovered or retained, under F43... section 57 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49) (deduction of contributions equivalent premium from refund of scheme contributions) or otherwise, as reimbursement or partial reimbursement for any contributions equivalent premium paid in connection with the scheme under Part 3 of that Act.**]**

(3) In this section "pension scheme" means a scheme for the provision of benefits consisting of or including relevant benefits for or in respect of employees or former employees.

"Relevant benefits" here means any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death or in anticipation of retirement or, in connection with past service, after retirement or death.

(4) In this section "employer" and "employee" shall be read as if a director of a company were employed by it.

Textual Amendments

F42 S. 140(2) omitted (N.I.) (6.4.2016) by virtue of Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 13 para. 73**

F43 Words in s. 140(2) omitted (6.4.2016) by virtue of Pensions Act 2014 (c. 19), s. 56(4), **Sch. 13 para. 75**

Subsidiary acting as dealer in securities

141 Subsidiary acting as authorised dealer in securities

(1) The prohibition in section 136 (prohibition on subsidiary being a member of its holding company) does not apply where the shares are held by the subsidiary in the ordinary course of its business as an intermediary.

(2) For this purpose a person is an intermediary if he—

(a) carries on a bona fide business of dealing in securities,

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(b) is a member of or has access to a **[**[F44]UK regulated market**]**, and

(c) does not carry on an excluded business.

(3) The following are excluded businesses—

(a) a business that consists wholly or mainly in the making or managing of investments;

(b) a business that consists wholly or mainly in, or is carried on wholly or mainly for the purposes of, providing services to persons who are connected with the person carrying on the business;

(c) a business that consists in insurance business;

(d) a business that consists in managing or acting as trustee in relation to a pension scheme, or that is carried on by the manager or trustee of such a scheme in connection with or for the purposes of the scheme;

(e) a business that consists in operating or acting as trustee in relation to a collective investment scheme, or that is carried on by the operator or trustee of such a scheme in connection with and for the purposes of the scheme.

(4) For the purposes of this section—

(a) the question whether a person is connected with another shall be determined in accordance with **[**[F45]section 1122 of the Corporation Tax Act 2010**]**;

(b) "collective investment scheme" has the meaning given in section 235 of the Financial Services and Markets Act 2000 (c. 8);

(c) "insurance business" means business that consists in the effecting or carrying out of contracts of insurance;

(d) "securities" includes—

(i) options,

(ii) futures, and

(iii) contracts for differences,

and rights or interests in those investments;

(e) "trustee" and "the operator" in relation to a collective investment scheme shall be construed in accordance with section 237(2) of the Financial Services and Markets Act 2000 (c. 8).

(5) Expressions used in this section that are also used in the provisions regulating activities under the Financial Services and Markets Act 2000 have the same meaning here as they do in those provisions.

See section 22 of that Act, orders made under that section and Schedule 2 to that Act.

Textual Amendments

F44 Words in s. 141(2)(b) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 2** (with Sch. 4 para. 1) (as amended by S.I. 2020/523, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1)

F45 Words in s. 141(4)(a) substituted (1.4.2010 with effect in accordance with s. 1184 of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184(1), **Sch. 1 para. 488** (with Sch. 2)

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142 Protection of third parties in other cases where subsidiary acting as dealer in securities

(1) This section applies where—

(a) a subsidiary that is a dealer in securities has purportedly acquired shares in its holding company in contravention of the prohibition in section 136, and

(b) a person acting in good faith has agreed, for value and without notice of the contravention, to acquire shares in the holding company—

(i) from the subsidiary, or

(ii) from someone who has purportedly acquired the shares after their disposal by the subsidiary.

(2) A transfer to that person of the shares mentioned in subsection (1)(a) has the same effect as it would have had if their original acquisition by the subsidiary had not been in contravention of the prohibition.

Supplementary

143 Application of provisions to companies not limited by shares

In relation to a company other than a company limited by shares, the references in this Chapter to shares shall be read as references to the interest of its members as such, whatever the form of that interest.

144 Application of provisions to nominees

The provisions of this Chapter apply to a nominee acting on behalf of a subsidiary as to the subsidiary itself.

PART 9

EXERCISE OF MEMBERS' RIGHTS

Modifications etc. (not altering text)

C147 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

Effect of provisions in company's articles

145 Effect of provisions of articles as to enjoyment or exercise of members' rights

(1) This section applies where provision is made by a company's articles enabling a member to nominate another person or persons as entitled to enjoy or exercise all or any specified rights of the member in relation to the company.

(2) So far as is necessary to give effect to that provision, anything required or authorised by any provision of the Companies Acts to be done by or in relation to the member

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shall instead be done, or (as the case may be) may instead be done, by or in relation to the nominated person (or each of them) as if he were a member of the company.

(3) This applies, in particular, to the rights conferred by—

(a) sections 291 and 293 (right to be sent proposed written resolution);

(b) section 292 (right to require circulation of written resolution);

(c) section 303 (right to require directors to call general meeting);

(d) section 310 (right to notice of general meetings);

(e) section 314 (right to require circulation of a statement);

[F46(ea) section 319A (right to ask question at meeting of traded company);**]**

(f) section 324 (right to appoint proxy to act at meeting);

(g) section 338 (right to require circulation of resolution for AGM of public company); and

[F47(ga) section 338A (traded companies: members' power to include matters in business dealt with at AGM);**]**

[F48(gb) 360AA (traded companies: confirmation of receipt of electronic voting);**]**

[F49(gc) 360BA (traded companies: right to confirmation of vote after a general meeting);**]**

(h) section 423 (right to be sent a copy of annual accounts and reports).

(4) This section and any such provision as is mentioned in subsection (1)—

(a) do not confer rights enforceable against the company by anyone other than the member, and

(b) do not affect the requirements for an effective transfer or other disposition of the whole or part of a member's interest in the company.

Textual Amendments

F46 S. 145(3)(ea) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 12(2)** (with application as stated in reg. 1(2))

F47 S. 145(3)(ga) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 17(2)** (with application as stated in reg. 1(2))

F48 S. 145(3)(gb) inserted (3.9.2020) by The Companies (Shareholders Rights to Voting Confirmations) Regulations 2020 (S.I. 2020/717), regs. 1(2), **4(2)** (with reg. 2)

F49 S. 145(3)(gc) inserted (3.9.2020) by The Companies (Shareholders Rights to Voting Confirmations) Regulations 2020 (S.I. 2020/717), regs. 1(2), **5(2)** (with reg. 3)

Commencement Information

I28 S. 145 wholly in force at 1.10.2007; s. 145 not in force at Royal Assent see s. 1300; s. 145 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(c)** (with savings in art. 12 and with transitional provisions and savings in Sch. 3 and subject to transitional adaptations specified in Sch. 1)

Information rights

146 Traded companies: nomination of persons to enjoy information rights

(1) This section applies to a company whose shares are admitted to trading on a **[**F50UK regulated market or an EU regulated market**]**.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(2) A member of such a company who holds shares on behalf of another person may nominate that person to enjoy information rights.

(3) "Information rights" means—

(a) the right to receive a copy of all communications that the company sends to its members generally or to any class of its members that includes the person making the nomination, and

(b) the rights conferred by—

(i) section 431 or 432 (right to require copies of accounts and reports), and

(ii) section 1145 (right to require hard copy version of document or information provided in another form).

(4) The reference in subsection (3)(a) to communications that a company sends to its members generally includes the company's annual accounts and reports.

For the application of section 426 (option to provide **[**F51strategic report with supplementary material**]**) in relation to a person nominated to enjoy information rights, see subsection (5) of that section.

(5) A company need not act on a nomination purporting to relate to certain information rights only.

Textual Amendments

F50 Words in s. 146(1) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 3**; 2020 c. 1, Sch. 5 para. 1(1)

F51 Words in s. 146(4) substituted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 2**

Commencement Information

I29 S. 146 wholly in force at 1.10.2007; s. 146 not in force at Royal Assent see s. 1300; s. 146 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(c)** (with savings in art. 12 and with transitional provisions and savings in Sch. 3 and subject to transitional adaptations specified in Sch. 1)

147 Information rights: form in which copies to be provided

(1) This section applies as regards the form in which copies are to be provided to a person nominated under section 146 (nomination of person to enjoy information rights).

(2) If the person to be nominated wishes to receive hard copy communications, he must—

(a) request the person making the nomination to notify the company of that fact, and

(b) provide an address to which such copies may be sent.

This must be done before the nomination is made.

(3) If having received such a request the person making the nomination—

(a) notifies the company that the nominated person wishes to receive hard copy communications, and

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(b) provides the company with that address,

the right of the nominated person is to receive hard copy communications accordingly.

(4) This is subject to the provisions of Parts 3 and 4 of Schedule 5 (communications by company) under which the company may take steps to enable it to communicate in electronic form or by means of a website.

(5) If no such notification is given (or no address is provided), the nominated person is taken to have agreed that documents or information may be sent or supplied to him by the company by means of a website.

(6) That agreement—

(a) may be revoked by the nominated person, and

(b) does not affect his right under section 1145 to require a hard copy version of a document or information provided in any other form.

Commencement Information

I30 S. 147 wholly in force at 1.10.2007; s. 147 not in force at Royal Assent see s. 1300; s. 147 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(c)** (with savings in art. 12 and with transitional provisions and savings in Sch. 3 and subject to transitional adaptations specified in Sch. 1)

148 Termination or suspension of nomination

(1) The following provisions have effect in relation to a nomination under section 146 (nomination of person to enjoy information rights).

(2) The nomination may be terminated at the request of the member or of the nominated person.

(3) The nomination ceases to have effect on the occurrence in relation to the member or the nominated person of any of the following—

(a) in the case of an individual, death or bankruptcy;

(b) in the case of a body corporate, dissolution or the making of an order for the winding up of the body otherwise than for the purposes of reconstruction.

(4) In subsection (3)—

(a) the reference to bankruptcy includes—

(i) the sequestration of a person's estate, and

(ii) a person's estate being the subject of a protected trust deed (within the meaning of the Bankruptcy (Scotland) Act **[**F52 2016**]**); and

(b) the reference to the making of an order for winding up is to—

(i) the making of such an order under the Insolvency Act 1986 (c. 45) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or

(ii) any corresponding proceeding under the law of a country or territory outside the United Kingdom.

(5) The effect of any nominations made by a member is suspended at any time when there are more nominated persons than the member has shares in the company.

(6) Where—

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(a) the member holds different classes of shares with different information rights, and

(b) there are more nominated persons than he has shares conferring a particular right,

the effect of any nominations made by him is suspended to the extent that they confer that right.

(7) Where the company—

(a) enquires of a nominated person whether he wishes to retain information rights, and

(b) does not receive a response within the period of 28 days beginning with the date on which the company's enquiry was sent,

the nomination ceases to have effect at the end of that period.

Such an enquiry is not to be made of a person more than once in any twelve-month period.

(8) The termination or suspension of a nomination means that the company is not required to act on it.

It does not prevent the company from continuing to do so, to such extent or for such period as it thinks fit.

Textual Amendments

F52 Word in s. 148(4)(a)(ii) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 29(4)**

Commencement Information

I31 S. 148 wholly in force at 1.10.2007; s. 148 not in force at Royal Assent see s. 1300; s. 148 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(c)** (with savings in art. 12 and with transitional provisions and savings in Sch. 3 and subject to transitional adaptations specified in Sch. 1)

149 Information as to possible rights in relation to voting

(1) This section applies where a company sends a copy of a notice of a meeting to a person nominated under section 146 (nomination of person to enjoy information rights)

(2) The copy of the notice must be accompanied by a statement that—

(a) he may have a right under an agreement between him and the member by whom he was nominated to be appointed, or to have someone else appointed, as a proxy for the meeting, and

(b) if he has no such right or does not wish to exercise it, he may have a right under such an agreement to give instructions to the member as to the exercise of voting rights.

(3) Section 325 (notice of meeting to contain statement of member's rights in relation to appointment of proxy) does not apply to the copy, and the company must either—

(a) omit the notice required by that section, or

(b) include it but state that it does not apply to the nominated person.

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Commencement Information

I32 S. 149 wholly in force at 1.10.2007; s. 149 not in force at Royal Assent see s. 1300; s. 149 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(c)** (with savings in art. 12 and with transitional provisions and savings in Sch. 3 and subject to transitional adaptations specified in Sch. 1)

150 Information rights: status of rights

(1) This section has effect as regards the rights conferred by a nomination under section 146 (nomination of person to enjoy information rights).

(2) Enjoyment by the nominated person of the rights conferred by the nomination is enforceable against the company by the member as if they were rights conferred by the company's articles.

(3) Any enactment, and any provision of the company's articles, having effect in relation to communications with members has a corresponding effect (subject to any necessary adaptations) in relation to communications with the nominated person.

(4) In particular—

(a) where under any enactment, or any provision of the company's articles, the members of a company entitled to receive a document or information are determined as at a date or time before it is sent or supplied, the company need not send or supply it to a nominated person—

(i) whose nomination was received by the company after that date or time, or

(ii) if that date or time falls in a period of suspension of his nomination; and

(b) where under any enactment, or any provision of the company's articles, the right of a member to receive a document or information depends on the company having a current address for him, the same applies to any person nominated by him.

(5) The rights conferred by the nomination—

(a) are in addition to the rights of the member himself, and

(b) do not affect any rights exercisable by virtue of any such provision as is mentioned in section 145 (provisions of company's articles as to enjoyment or exercise of members' rights).

(6) A failure to give effect to the rights conferred by the nomination does not affect the validity of anything done by or on behalf of the company.

(7) References in this section to the rights conferred by the nomination are to—

(a) the rights referred to in section 146(3) (information rights), and

(b) where applicable, the rights conferred by section 147(3) (right to hard copy communications) and section 149 (information as to possible voting rights).

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I33 S. 150 wholly in force at 1.10.2007; s. 150 not in force at Royal Assent see s. 1300; s. 150 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(c)** (with savings in art. 12 and with transitional provisions and savings in Sch. 3 and subject to transitional adaptations specified in Sch. 1)

151 Information rights: power to amend

(1) The Secretary of State may by regulations amend the provisions of sections 146 to 150 (information rights) so as to—

(a) extend or restrict the classes of companies to which section 146 applies,

(b) make other provision as to the circumstances in which a nomination may be made under that section, or

(c) extend or restrict the rights conferred by such a nomination.

(2) The regulations may make such consequential modifications of any other provisions of this Part, or of any other enactment, as appear to the Secretary of State to be necessary.

(3) Regulations under this section are subject to affirmative resolution procedure.

Commencement Information

I34 S. 151 wholly in force at 1.10.2007; s. 151 not in force at Royal Assent see s. 1300; s. 151 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5; s. 151 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(c)** (with savings in art. 12 and with transitional provisions and savings in Sch. 3 and subject to transitional adaptations specified in Sch. 1)

Exercise of rights where shares held on behalf of others

152 Exercise of rights where shares held on behalf of others: exercise in different ways

(1) Where a member holds shares in a company on behalf of more than one person—

(a) rights attached to the shares, and

(b) rights under any enactment exercisable by virtue of holding the shares,

need not all be exercised, and if exercised, need not all be exercised in the same way.

(2) A member who exercises such rights but does not exercise all his rights, must inform the company to what extent he is exercising the rights.

(3) A member who exercises such rights in different ways must inform the company of the ways in which he is exercising them and to what extent they are exercised in each way.

(4) If a member exercises such rights without informing the company—

(a) that he is not exercising all his rights, or

(b) that he is exercising his rights in different ways,

the company is entitled to assume that he is exercising all his rights and is exercising them in the same way.

Status: *Point in time view as at 31/12/2020.*
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Commencement Information

I35 S. 152 wholly in force at 1.10.2007; s. 152 not in force at Royal Assent see s. 1300; s. 152 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(c)** (with savings in art. 12 and with transitional provisions and savings in Sch. 3 and subject to transitional adaptations specified in Sch. 1)

153 Exercise of rights where shares held on behalf of others: members' requests

(1) This section applies for the purposes of—

(a) section 314 (power to require circulation of statement),

(b) section 338 (public companies: power to require circulation of resolution for AGM),

[F53(ba) section 338A (traded companies: members' power to include matters in business dealt with at AGM),**]**

(c) section 342 (power to require independent report on poll), and

(d) section 527 (power to require website publication of audit concerns).

(2) A company is required to act under any of those sections if it receives a request in relation to which the following conditions are met—

(a) it is made by at least 100 persons;

(b) it is authenticated by all the persons making it;

(c) in the case of any of those persons who is not a member of the company, it is accompanied by a statement—

(i) of the full name and address of a person ("the member") who is a member of the company and holds shares on behalf of that person,

(ii) that the member is holding those shares on behalf of that person in the course of a business,

(iii) of the number of shares in the company that the member holds on behalf of that person,

(iv) of the total amount paid up on those shares,

(v) that those shares are not held on behalf of anyone else or, if they are, that the other person or persons are not among the other persons making the request,

(vi) that some or all of those shares confer voting rights that are relevant for the purposes of making a request under the section in question, and

(vii) that the person has the right to instruct the member how to exercise those rights;

(d) in the case of any of those persons who is a member of the company, it is accompanied by a statement—

(i) that he holds shares otherwise than on behalf of another person, or

(ii) that he holds shares on behalf of one or more other persons but those persons are not among the other persons making the request;

(e) it is accompanied by such evidence as the company may reasonably require of the matters mentioned in paragraph (c) and (d);

(f) the total amount of the sums paid up on—

(i) shares held as mentioned in paragraph (c), and

(ii) shares held as mentioned in paragraph (d),

divided by the number of persons making the request, is not less than £100;

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(g) the request complies with any other requirements of the section in question as to contents, timing and otherwise.

Textual Amendments

F53 S. 153(1)(ba) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 17(3)** (with application as stated in reg. 1(2))

Commencement Information

I36 S. 153 wholly in force at 1.10.2007; s. 153 not in force at Royal Assent see s. 1300; s. 153 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(c)** (with savings in art. 12 and with transitional provisions and savings in Sch. 3 and subject to transitional adaptations specified in Sch. 1)

PART 10

A COMPANY'S DIRECTORS

Modifications etc. (not altering text)

C148 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

CHAPTER 1

APPOINTMENT AND REMOVAL OF DIRECTORS

Requirement to have directors

154 Companies required to have directors

(1) A private company must have at least one director.

(2) A public company must have at least two directors.

155 Companies required to have at least one director who is a natural person

(1) A company must have at least one director who is a natural person.

(2) This requirement is met if the office of director is held by a natural person as a corporation sole or otherwise by virtue of an office.

156 Direction requiring company to make appointment

(1) If it appears to the Secretary of State that a company is in breach of—

section 154 (requirements as to number of directors), or

section 155 (requirement to have at least one director who is a natural person),

the Secretary of State may give the company a direction under this section.

Status: *Point in time view as at 31/12/2020.*
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(2) The direction must specify—

(a) the statutory requirement the company appears to be in breach of,

(b) what the company must do in order to comply with the direction, and

(c) the period within which it must do so.

That period must be not less than one month or more than three months after the date on which the direction is given.

(3) The direction must also inform the company of the consequences of failing to comply.

(4) Where the company is in breach of section 154 or 155 it must comply with the direction by—

(a) making the necessary appointment or appointments, and

(b) giving notice of them under section 167,

before the end of the period specified in the direction.

(5) If the company has already made the necessary appointment or appointments (or so far as it has done so), it must comply with the direction by giving notice of them under section 167 before the end of the period specified in the direction.

(6) If a company fails to comply with a direction under this section, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding **[**F54one-tenth of level 5 on the standard scale**][**F54one-tenth of the greater of £5,000 or level 4 on the standard scale**]**.

Textual Amendments

F54 Words in s. 156(7) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(4)** (with reg. 5(1))

Commencement Information

I37 S. 156 wholly in force at 1.10.2008; s. 156 not in force at Royal Assent see s. 1300; s. 156 in force at 1.10.2008 by S.I. 2007/3495, **art. 5(1)(c)** (subject to transitional adaptations in Sch. 1 para. 24)

Appointment

157 Minimum age for appointment as director

(1) A person may not be appointed a director of a company unless he has attained the age of 16 years.

(2) This does not affect the validity of an appointment that is not to take effect until the person appointed attains that age.

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(3) Where the office of director of a company is held by a corporation sole, or otherwise by virtue of another office, the appointment to that other office of a person who has not attained the age of 16 years is not effective also to make him a director of the company until he attains the age of 16 years.

(4) An appointment made in contravention of this section is void.

(5) Nothing in this section affects any liability of a person under any provision of the Companies Acts if he—

(a) purports to act as director, or

(b) acts as a shadow director,

although he could not, by virtue of this section, be validly appointed as a director.

(6) This section has effect subject to section 158 (power to provide for exceptions from minimum age requirement).

158 Power to provide for exceptions from minimum age requirement

(1) The Secretary of State may make provision by regulations for cases in which a person who has not attained the age of 16 years may be appointed a director of a company.

(2) The regulations must specify the circumstances in which, and any conditions subject to which, the appointment may be made.

(3) If the specified circumstances cease to obtain, or any specified conditions cease to be met, a person who was appointed by virtue of the regulations and who has not since attained the age of 16 years ceases to hold office.

(4) The regulations may make different provision for different parts of the United Kingdom.

This is without prejudice to the general power to make different provision for different cases.

(5) Regulations under this section are subject to negative resolution procedure.

Commencement Information

I38 S. 158 wholly in force at 1.10.2008; s. 158 not in force at Royal Assent, see s. 1300; s. 158 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5) ; s. 158 in force at 1.10.2008 by S.I. 2007/3495, **art. 5(1)(c)** (with savings in arts. 7, 12)

159 Existing under-age directors

(1) This section applies where—

(a) a person appointed a director of a company before section 157 (minimum age for appointment as director) comes into force has not attained the age of 16 when that section comes into force, or

(b) the office of director of a company is held by a corporation sole, or otherwise by virtue of another office, and the person appointed to that other office has not attained the age of 16 years when that section comes into force,

and the case is not one excepted from that section by regulations under section 158.

Status: *Point in time view as at 31/12/2020.*
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(2) That person ceases to be a director on section 157 coming into force.

(3) The company must make the necessary consequential alteration in its register of directors but need not give notice to the registrar of the change.

(4) If it appears to the registrar (from other information) that a person has ceased by virtue of this section to be a director of a company, the registrar shall note that fact on the register.

160 Appointment of directors of public company to be voted on individually

(1) At a general meeting of a public company a motion for the appointment of two or more persons as directors of the company by a single resolution must not be made unless a resolution that it should be so made has first been agreed to by the meeting without any vote being given against it.

(2) A resolution moved in contravention of this section is void, whether or not its being so moved was objected to at the time.

But where a resolution so moved is passed, no provision for the automatic reappointment of retiring directors in default of another appointment applies.

(3) For the purposes of this section a motion for approving a person's appointment, or for nominating a person for appointment, is treated as a motion for his appointment.

(4) Nothing in this section applies to a resolution amending the company's articles.

161 Validity of acts of directors

(1) The acts of a person acting as a director are valid notwithstanding that it is afterwards discovered—

(a) that there was a defect in his appointment;
(b) that he was disqualified from holding office;
(c) that he had ceased to hold office;
(d) that he was not entitled to vote on the matter in question.

(2) This applies even if the resolution for his appointment is void under section 160 (appointment of directors of public company to be voted on individually).

Register of directors, etc

[F55 161A Alternative method of record-keeping

Sections 162 to 167 must be read with sections 167A to 167E (which allow for an alternative method of record-keeping in the case of private companies).**]**

Textual Amendments

F55 S. 161A inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 6**; S.I. 2016/321, reg. 6(c)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

162 Register of directors

(1) Every company must keep a register of its directors.

(2) The register must contain the required particulars (see sections 163, 164 and 166) of each person who is a director of the company.

(3) The register must be kept available for inspection—

(a) at the company's registered office, or

(b) at a place specified in regulations under section 1136.

(4) The company must give notice to the registrar—

(a) of the place at which the register is kept available for inspection, and

(b) of any change in that place,

unless it has at all times been kept at the company's registered office.

(5) The register must be open to the inspection—

(a) of any member of the company without charge, and

(b) of any other person on payment of such fee as may be prescribed.

(6) If default is made in complying with subsection (1), (2) or (3) or if default is made for 14 days in complying with subsection (4), or if an inspection required under subsection (5) is refused, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding **[**F56one-tenth of level 5 on the standard scale**][**F56one-tenth of the greater of £5,000 or level 4 on the standard scale**]**.

(8) In the case of a refusal of inspection of the register, the court may by order compel an immediate inspection of it.

Textual Amendments

F56 Words in s. 162(7) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(5)** (with reg. 5(1))

Modifications etc. (not altering text)

C149 S. 162: power to modify conferred (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), **ss. 39(1)**, 40(e), 49(1) (with ss. 2(2), 5(2), 39(8)(9))

C150 S. 162 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(b)**

C151 S. 162 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(b)**

C152 S. 162 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(b)**

C153 S. 162 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(b)**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

C154 Ss. 162-167 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 6** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C155 Ss. 162-165 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **18** (with Sch. 1 paras. 5, 6, 13, 14, 34, 35) (as amended (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 14(2)** (with reg. 5(1)))

C156 S. 162 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(b)**

C157 S. 162 modified (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **11(a)(ii)**

C158 S. 162(6) modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **7**

Commencement Information

I39 S. 162 wholly in force at 1.10.2009; s. 162 not in force at Royal Assent, see s. 1300; s. 162 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 162 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(i)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

163 Particulars of directors to be registered: individuals

(1) A company's register of directors must contain the following particulars in the case of an individual—

(a) name and any former name;

(b) a service address;

(c) the country or state (or part of the United Kingdom) in which he is usually resident;

(d) nationality;

(e) business occupation (if any);

(f) date of birth.

F57(2) For the purposes of this section "name" means a person's Christian name (or other forename) and surname, except that in the case of—

(a) a peer, or

(b) an individual usually known by a title,

the title may be stated instead of his Christian name (or other forename) and surname or in addition to either or both of them.

(3) For the purposes of this section a "former name" means a name by which the individual was formerly known for business purposes.

Where a person is or was formerly known by more than one such name, each of them must be stated.

(4) It is not necessary for the register to contain particulars of a former name in the following cases—

(a) in the case of a peer or an individual normally known by a British title, where the name is one by which the person was known previous to the adoption of or succession to the title;

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(b) in the case of any person, where the former name—

(i) was changed or disused before the person attained the age of 16 years, or

(ii) has been changed or disused for 20 years or more.

(5) A person's service address may be stated to be "The company's registered office".

Textual Amendments

F57 S. 163(2)-(4) applied by S.I. 1989/638, reg. 5(3A) (as substituted (1.10.2009) by The European Economic Interest Grouping (Amendment) Regulations 2009 (S.I. 2009/2399), **reg. 8(3)** (with reg. 2) and as amended (1.10.2014) by The European Economic Interest Grouping and European Public Limited-Liability Company (Amendment) Regulations 2014 (S.I. 2014/2382), regs. 1, **5(4)**)

Modifications etc. (not altering text)

C159 Ss. 162-165 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **18** (with Sch. 1 paras. 5, 6, 13, 14, 34, 35)

C160 Ss. 162-167 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 6** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C161 S. 163(2)-(4) applied by S.I. 2004/2326 reg. 10B (as inserted (1.10.2014) by The European Economic Interest Grouping and European Public Limited-Liability Company (Amendment) Regulations 2014 (S.I. 2014/2382), regs. 1, **18**)

C162 S. 163(2)-(5) applied by S.I. 2004/2326 reg. 85(4) (as substituted (1.10.2014) by The European Economic Interest Grouping and European Public Limited-Liability Company (Amendment) Regulations 2014 (S.I. 2014/2382), regs. 1, **29**)

C163 S. 163(2)-(4) applied by S.I. 1989/638, reg. 5(3A) (as substituted (1.10.2009) by The European Economic Interest Grouping (Amendment) Regulations 2009 (S.I. 2009/2399), **reg. 8(3)** (with reg. 2))

164 Particulars of directors to be registered: corporate directors and firms

A company's register of directors must contain the following particulars in the case of a body corporate, or a firm that is a legal person under the law by which it is governed—

(a) corporate or firm name;

(b) registered or principal office;

[[F58](c) in the case of a limited company that is a UK-registered company, the registered number;**]**

(d) in any other case, particulars of—

(i) the legal form of the company or firm and the law by which it is governed, and

(ii) if applicable, the register in which it is entered (including details of the state) and its registration number in that register.

Textual Amendments

F58 S. 164(c) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 4** (with Sch. 4 para. 2) (as amended by S.I. 2020/523, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1)

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Modifications etc. (not altering text)

C164 Ss. 162-167 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 6** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C165 Ss. 162-165 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 18 (with Sch. 1 paras. 5, 6, 13, 14, 34, 35) (as amended (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 3 para. 23** (with Sch. 4 para. 2) (as amended by S.I. 2020/523, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1))

165 Register of directors' residential addresses

(1) Every company must keep a register of directors' residential addresses.

(2) The register must state the usual residential address of each of the company's directors.

(3) If a director's usual residential address is the same as his service address (as stated in the company's register of directors), the register of directors' residential addresses need only contain an entry to that effect.

This does not apply if his service address is stated to be "The company's registered office".

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

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding **[**F59one-tenth of level 5 on the standard scale**][**F59one-tenth of the greater of £5,000 or level 4 on the standard scale**]**.

(6) This section applies only to directors who are individuals, not where the director is a body corporate or a firm that is a legal person under the law by which it is governed.

Textual Amendments

F59 Words in s. 165(5) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(6)** (with reg. 5(1))

Modifications etc. (not altering text)

C166 S. 165 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(c)**

C167 S. 165 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(c)**

C168 S. 165 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(c)**

C169 S. 165 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(c)**

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C170 Ss. 162-165 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **18** (with Sch. 1 paras. 5, 6, 13, 14, 34, 35)

C171 Ss. 162-167 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 6** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C172 S. 165 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(c)**

166 Particulars of directors to be registered: power to make regulations

(1) The Secretary of State may make provision by regulations amending—

section 163 (particulars of directors to be registered: individuals),

section 164 (particulars of directors to be registered: corporate directors and firms), or

section 165 (register of directors' residential addresses),

so as to add to or remove items from the particulars required to be contained in a company's register of directors or register of directors' residential addresses.

(2) Regulations under this section are subject to affirmative resolution procedure.

Modifications etc. (not altering text)

C173 Ss. 162-167 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 6** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I40 S. 166 wholly in force at 1.10.2009; s. 166 not in force at Royal Assent, see s. 1300; s. 166 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 166 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(i)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

167 Duty to notify registrar of changes

(1) A company must, within the period of 14 days from—

(a) a person becoming or ceasing to be a director, or

(b) the occurrence of any change in the particulars contained in its register of directors or its register of directors' residential addresses,

give notice to the registrar of the change and of the date on which it occurred.

(2) Notice of a person having become a director of the company must—

(a) contain a statement of the particulars of the new director that are required to be included in the company's register of directors and its register of directors' residential addresses, and

[F60(b) be accompanied by a statement by the company that the person has consented to act in that capacity.**]**

(3) Where—

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(a) a company gives notice of a change of a director's service address as stated in the company's register of directors, and

(b) the notice is not accompanied by notice of any resulting change in the particulars contained in the company's register of directors' residential addresses,

the notice must be accompanied by a statement that no such change is required.

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

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding **[**F61one-tenth of level 5 on the standard scale**][**F61one-tenth of the greater of £5,000 or level 4 on the standard scale**]**.

Textual Amendments

F60 S. 167(2)(b) substituted (10.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 100(4)**, 164(1) (with s. 100(6)); S.I. 2015/1689, reg. 4(b)

F61 Words in s. 167(5) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(7)** (with reg. 5(1))

Modifications etc. (not altering text)

C174 S. 167: power to modify conferred (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), **ss. 39(1)**, 40(e), 49(1) (with ss. 2(2), 5(2), 39(8)(9))

C175 S. 167 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(d)**

C176 S. 167 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(d)**

C177 S. 167 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(d)**

C178 S. 167 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(d)**

C179 Ss. 162-167 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 6** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C180 S. 167 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(d)**

C181 S. 167(1) modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **8**

*[*F62*Option to keep information on the central register*

Textual Amendments

F62 Ss. 167A-167F and cross-heading inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 7**; S.I. 2016/321, reg. 6(c)

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167A Right to make an election

(1) An election may be made under this section in respect of a register of directors or a register of directors' residential addresses (or both).

(2) The election may be made—

(a) by the subscribers wishing to form a private company under this Act, or

(b) by the private company itself once it is formed and registered.

(3) The election is made by giving notice of election to the registrar.

(4) If the notice is given by subscribers wishing to form a private company, it must be given when the documents required to be delivered under section 9 are delivered to the registrar.

Modifications etc. (not altering text)

C182 Ss. 167A-167E applied (with modifications) by S.I. 2009/1804, reg. 18A (as inserted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 1 para. 3)

167B Effective date of election

(1) An election made under section 167A takes effect when the notice of election is registered by the registrar.

(2) The election remains in force until either—

(a) the company ceases to be a private company, or

(b) a notice of withdrawal sent by the company under section 167E is registered by the registrar,

whichever occurs first.

Modifications etc. (not altering text)

C182 Ss. 167A-167E applied (with modifications) by S.I. 2009/1804, reg. 18A (as inserted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 1 para. 3)

167C Effect of election on obligations under sections 162 to 167

(1) If an election is in force under section 167A with respect to a company, the company's obligations under sections 162 to 167—

(a) to keep and maintain a register of the relevant kind, and

(b) to notify the registrar of changes to it,

do not apply with respect to the period when the election is in force.

(2) The reference in subsection (1) to a register "of the relevant kind" is to a register (whether a register of directors or a register of directors' residential addresses) of the kind in respect of which the election is made.

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Modifications etc. (not altering text)

C182 Ss. 167A-167E applied (with modifications) by S.I. 2009/1804, reg. 18A (as inserted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 1 para. 3)

167D Duty to notify registrar of changes

(1) The duty under subsection (2) applies during the period when an election under section 167A is in force.

(2) The company must deliver to the registrar—

(a) any information of which the company would during that period have been obliged to give notice under section 167, had the election not been in force, and

(b) any statement that would have had to accompany such a notice.

(3) The information (and any accompanying statement) must be delivered as soon as reasonably practicable after the company becomes aware of the information and, in any event, no later than the time by which the company would have been required under section 167 to give notice of the information.

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

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

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

(a) in England and Wales, to a fine and, for continued contravention, a daily default fine not exceeding the greater of £500 and one-tenth of level 4 on the standard scale;

(b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 5 on the standard scale.

Modifications etc. (not altering text)

C182 Ss. 167A-167E applied (with modifications) by S.I. 2009/1804, reg. 18A (as inserted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 1 para. 3)

167E Withdrawing the election

(1) A company may withdraw an election made by or in respect of it under section 167A.

(2) Withdrawal is achieved by giving notice of withdrawal to the registrar.

(3) The withdrawal takes effect when the notice is registered by the registrar.

(4) The effect of withdrawal is that the company's obligation under section 162 or (as the case may be) 165 to keep and maintain a register of the relevant kind, and its obligation

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under section 167 to notify the registrar of changes to that register, apply from then on with respect to the period going forward.

(5) This means that, when the withdrawal takes effect—

(a) the company must enter in that register all the information that is required to be contained in that register in respect of matters that are current as at that time, but

(b) the company is not required to enter in its register information relating to the period when the election was in force that is no longer current.

Modifications etc. (not altering text)

C182 Ss. 167A-167E applied (with modifications) by S.I. 2009/1804, reg. 18A (as inserted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 1 para. 3)

167F Power to extend option to public companies

(1) The Secretary of State may by regulations amend this Act—

(a) to extend sections 167A to 167E (with or without modification) to public companies or public companies of a class specified in the regulations, and

(b) to make such other amendments as the Secretary of State thinks fit in consequence of that extension.

(2) Regulations under this section are subject to affirmative resolution procedure.**]**

Removal

168 Resolution to remove director

(1) A company may by ordinary resolution at a meeting remove a director before the expiration of his period of office, notwithstanding anything in any agreement between it and him.

(2) Special notice is required of a resolution to remove a director under this section or to appoint somebody instead of a director so removed at the meeting at which he is removed.

(3) A vacancy created by the removal of a director under this section, if not filled at the meeting at which he is removed, may be filled as a casual vacancy.

(4) A person appointed director in place of a person removed under this section is treated, for the purpose of determining the time at which he or any other director is to retire, as if he had become director on the day on which the person in whose place he is appointed was last appointed a director.

(5) This section is not to be taken—

(a) as depriving a person removed under it of compensation or damages payable to him in respect of the termination of his appointment as director or of any appointment terminating with that as director, or

(b) as derogating from any power to remove a director that may exist apart from this section.

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169 Director's right to protest against removal

(1) On receipt of notice of an intended resolution to remove a director under section 168, the company must forthwith send a copy of the notice to the director concerned.

(2) The director (whether or not a member of the company) is entitled to be heard on the resolution at the meeting.

(3) Where notice is given of an intended resolution to remove a director under that section, and the director concerned makes with respect to it 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 sent (whether before or after receipt of the representations by the company).

(4) If a copy of the representations is not sent as required by subsection (3) because received too late or because of the company's default, the director 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.

(6) The court may order the company's costs (in Scotland, expenses) on an application under subsection (5) to be paid in whole or in part by the director, notwithstanding that he is not a party to the application.

CHAPTER 2

GENERAL DUTIES OF DIRECTORS

Introductory

170 Scope and nature of general duties

(1) The general duties specified in sections 171 to 177 are owed by a director of a company to the company.

(2) A person who ceases to be a director continues to be subject—

(a) to the duty in section 175 (duty to avoid conflicts of interest) as regards the exploitation of any property, information or opportunity of which he became aware at a time when he was a director, and

(b) to the duty in section 176 (duty not to accept benefits from third parties) as regards things done or omitted by him before he ceased to be a director.

To that extent those duties apply to a former director as to a director, subject to any necessary adaptations.

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(3) The general duties are based on certain common law rules and equitable principles as they apply in relation to directors and have effect in place of those rules and principles as regards the duties owed to a company by a director.

(4) The general duties shall be interpreted and applied in the same way as common law rules or equitable principles, and regard shall be had to the corresponding common law rules and equitable principles in interpreting and applying the general duties.

[[F63](5) The general duties apply to a shadow director of a company where and to the extent that they are capable of so applying.**]**

Textual Amendments

F63 S. 170(5) substituted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 89(1)**, 164(3)(g)(iii)

Modifications etc. (not altering text)

C183 Ss. 170-177 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(e)**

C184 Ss. 170-177 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(e)**

C185 Ss. 170-177 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(e)**

C186 Ss. 170-177 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(e)**

C187 Ss. 170-177 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(e)**

C188 S. 170 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(1)** (with reg. 189)

Commencement Information

I41 S. 170 wholly in force at 1.10.2007; s. 170 not in force at Royal Assent see s. 1300; s. 170 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with savings in art. 12 and subject to transitional adaptations specified in Sch. 1)

The general duties

171 Duty to act within powers

A director of a company must—

(a) act in accordance with the company's constitution, and

(b) only exercise powers for the purposes for which they are conferred.

Modifications etc. (not altering text)

C187 Ss. 170-177 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(e)**

C189 Ss. 170-177 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(e)**

C190 Ss. 170-177 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(e)**

C191 Ss. 170-177 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(e)**

C192 Ss. 170-177 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(e)**

C193 S. 171 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(1)** (with reg. 189)

Commencement Information

I42 S. 171 wholly in force at 1.10.2007; s. 171 not in force at Royal Assent see s. 1300; s. 171 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with savings in art. 12 and subject to transitional adaptations specified in Sch. 1)

172 Duty to promote the success of the company

(1) A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to—

(a) the likely consequences of any decision in the long term,

(b) the interests of the company's employees,

(c) the need to foster the company's business relationships with suppliers, customers and others,

(d) the impact of the company's operations on the community and the environment,

(e) the desirability of the company maintaining a reputation for high standards of business conduct, and

(f) the need to act fairly as between members of the company.

(2) Where or to the extent that the purposes of the company consist of or include purposes other than the benefit of its members, subsection (1) has effect as if the reference to promoting the success of the company for the benefit of its members were to achieving those purposes.

(3) The duty imposed by this section has effect subject to any enactment or rule of law requiring directors, in certain circumstances, to consider or act in the interests of creditors of the company.

Modifications etc. (not altering text)

C187 Ss. 170-177 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(e)**

C194 Ss. 170-177 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(e)**

C195 Ss. 170-177 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(e)**

C196 Ss. 170-177 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(e)**

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C197 Ss. 170-177 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(e)**

C198 S. 172 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(1)** (with reg. 189)

Commencement Information

I43 S. 172 wholly in force at 1.10.2007; s. 172 not in force at Royal Assent see s. 1300; s. 172 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with savings in art. 12 and subject to transitional adaptations specified in Sch. 1)

173 Duty to exercise independent judgment

(1) A director of a company must exercise independent judgment.

(2) This duty is not infringed by his acting—

(a) in accordance with an agreement duly entered into by the company that restricts the future exercise of discretion by its directors, or

(b) in a way authorised by the company's constitution.

Modifications etc. (not altering text)

C187 Ss. 170-177 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(e)**

C199 Ss. 170-177 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(e)**

C200 Ss. 170-177 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(e)**

C201 Ss. 170-177 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(e)**

C202 Ss. 170-177 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(e)**

C203 Ss. 173-179 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(1)** (with reg. 189)

Commencement Information

I44 S. 173 wholly in force at 1.10.2007; s. 173 not in force at Royal Assent see s. 1300; s. 173 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with savings in art. 12 and subject to transitional adaptations specified in Sch. 1)

174 Duty to exercise reasonable care, skill and diligence

(1) A director of a company must exercise reasonable care, skill and diligence.

(2) This means the care, skill and diligence that would be exercised by a reasonably diligent person with—

(a) the general knowledge, skill and experience that may reasonably be expected of a person carrying out the functions carried out by the director in relation to the company, and

(b) the general knowledge, skill and experience that the director has.

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Modifications etc. (not altering text)

C187 Ss. 170-177 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(e)**

C203 Ss. 173-179 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(1)** (with reg. 189)

C204 Ss. 170-177 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(e)**

C205 Ss. 170-177 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(e)**

C206 Ss. 170-177 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(e)**

C207 Ss. 170-177 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(e)**

C208 S. 174(2) applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(4)** (with reg. 189)

Commencement Information

I45 S. 174 wholly in force at 1.10.2007; s. 174 not in force at Royal Assent see s. 1300; s. 174 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with savings in art. 12 and subject to transitional adaptations specified in Sch. 1)

175 Duty to avoid conflicts of interest

(1) A director of a company must avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company.

(2) This applies in particular to the exploitation of any property, information or opportunity (and it is immaterial whether the company could take advantage of the property, information or opportunity).

(3) This duty does not apply to a conflict of interest arising in relation to a transaction or arrangement with the company.

(4) This duty is not infringed—

(a) if the situation cannot reasonably be regarded as likely to give rise to a conflict of interest; or

(b) if the matter has been authorised by the directors.

(5) Authorisation may be given by the directors—

(a) where the company is a private company and nothing in the company's constitution invalidates such authorisation, by the matter being proposed to and authorised by the directors; or

(b) where the company is a public company and its constitution includes provision enabling the directors to authorise the matter, by the matter being proposed to and authorised by them in accordance with the constitution.

(6) The authorisation is effective only if—

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(a) any requirement as to the quorum at the meeting at which the matter is considered is met without counting the director in question or any other interested director, and

(b) the matter was agreed to without their voting or would have been agreed to if their votes had not been counted.

(7) Any reference in this section to a conflict of interest includes a conflict of interest and duty and a conflict of duties.

Modifications etc. (not altering text)

C187 Ss. 170-177 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(e)**

C203 Ss. 173-179 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(1)** (with reg. 189)

C209 Ss. 170-177 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(e)**

C210 Ss. 170-177 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(e)**

C211 Ss. 170-177 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(e)**

C212 Ss. 170-177 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(e)**

176 Duty not to accept benefits from third parties

(1) A director of a company must not accept a benefit from a third party conferred by reason of—

(a) his being a director, or

(b) his doing (or not doing) anything as director.

(2) A "third party" means a person other than the company, an associated body corporate or a person acting on behalf of the company or an associated body corporate.

(3) Benefits received by a director from a person by whom his services (as a director or otherwise) are provided to the company are not regarded as conferred by a third party.

(4) This duty is not infringed if the acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

(5) Any reference in this section to a conflict of interest includes a conflict of interest and duty and a conflict of duties.

Modifications etc. (not altering text)

C187 Ss. 170-177 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(e)**

C203 Ss. 173-179 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(1)** (with reg. 189)

C213 Ss. 170-177 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(e)**

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C214 Ss. 170-177 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(e)**

C215 Ss. 170-177 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(e)**

C216 Ss. 170-177 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(e)**

177 Duty to declare interest in proposed transaction or arrangement

(1) If a director of a company is in any way, directly or indirectly, interested in a proposed transaction or arrangement with the company, he must declare the nature and extent of that interest to the other directors.

(2) The declaration may (but need not) be made—

(a) at a meeting of the directors, or

(b) by notice to the directors in accordance with—

(i) section 184 (notice in writing), or

(ii) section 185 (general notice).

(3) If a declaration of interest under this section proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.

(4) Any declaration required by this section must be made before the company enters into the transaction or arrangement.

(5) This section does not require a declaration of an interest of which the director is not aware or where the director is not aware of the transaction or arrangement in question.

For this purpose a director is treated as being aware of matters of which he ought reasonably to be aware.

(6) A director need not declare an interest—

(a) if it cannot reasonably be regarded as likely to give rise to a conflict of interest;

(b) if, or to the extent that, the other directors are already aware of it (and for this purpose the other directors are treated as aware of anything of which they ought reasonably to be aware); or

(c) if, or to the extent that, it concerns terms of his service contract that have been or are to be considered—

(i) by a meeting of the directors, or

(ii) by a committee of the directors appointed for the purpose under the company's constitution.

Modifications etc. (not altering text)

C187 Ss. 170-177 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(e)**

C203 Ss. 173-179 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(1)** (with reg. 189)

C217 Ss. 170-177 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(e)**

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C218 Ss. 170-177 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(e)**

C219 Ss. 170-177 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(e)**

C220 Ss. 170-177 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(e)**

Supplementary provisions

178 Civil consequences of breach of general duties

(1) The consequences of breach (or threatened breach) of sections 171 to 177 are the same as would apply if the corresponding common law rule or equitable principle applied.

(2) The duties in those sections (with the exception of section 174 (duty to exercise reasonable care, skill and diligence)) are, accordingly, enforceable in the same way as any other fiduciary duty owed to a company by its directors.

Modifications etc. (not altering text)

C203 Ss. 173-179 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(1)** (with reg. 189)

Commencement Information

I46 S. 178 wholly in force at 1.10.2007; s. 178 not in force at Royal Assent see s. 1300; s. 178 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with savings in art. 12 and subject to transitional adaptations specified in Sch. 1)

179 Cases within more than one of the general duties

Except as otherwise provided, more than one of the general duties may apply in any given case.

Modifications etc. (not altering text)

C203 Ss. 173-179 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(1)** (with reg. 189)

Commencement Information

I47 S. 179 wholly in force at 1.10.2007; s. 179 not in force at Royal Assent see s. 1300; s. 179 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with savings in art. 12 and subject to transitional adaptations specified in Sch. 1)

180 Consent, approval or authorisation by members

(1) In a case where—

(a) section 175 (duty to avoid conflicts of interest) is complied with by authorisation by the directors, or

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(b) section 177 (duty to declare interest in proposed transaction or arrangement) is complied with,

the transaction or arrangement is not liable to be set aside by virtue of any common law rule or equitable principle requiring the consent or approval of the members of the company.

This is without prejudice to any enactment, or provision of the company's constitution, requiring such consent or approval.

(2) The application of the general duties is not affected by the fact that the case also falls within Chapter 4 (transactions requiring approval of members)**[**F64or 4A**]**, except that where **[**F65either of those Chapters**]** applies and—

(a) approval is given under **[**F66the Chapter concerned**]**, or

(b) the matter is one as to which it is provided that approval is not needed,

it is not necessary also to comply with section 175 (duty to avoid conflicts of interest) or section 176 (duty not to accept benefits from third parties).

(3) Compliance with the general duties does not remove the need for approval under any applicable provision of Chapter 4 (transactions requiring approval of members)**[**F67or 4A**]**.

(4) The general duties—

(a) have effect subject to any rule of law enabling the company to give authority, specifically or generally, for anything to be done (or omitted) by the directors, or any of them, that would otherwise be a breach of duty, and

(b) where the company's articles contain provisions for dealing with conflicts of interest, are not infringed by anything done (or omitted) by the directors, or any of them, in accordance with those provisions.

(5) Otherwise, the general duties have effect (except as otherwise provided or the context otherwise requires) notwithstanding any enactment or rule of law.

Textual Amendments

F64 Words in s. 180(2) substituted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 81(2)(a)(i)**, 103(3); S.I. 2013/2227, art. 2(h)

F65 Words in s. 180(2) substituted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 81(2)(a)(ii)**, 103(3); S.I. 2013/2227, art. 2(h)

F66 Words in s. 180(2)(a) substituted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 81(2)(b)**, 103(3); S.I. 2013/2227, art. 2(h)

F67 Words in s. 180(3) inserted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 81(2)(c)**, 103(3); S.I. 2013/2227, art. 2(h)

Modifications etc. (not altering text)

C221 S. 180(2) modified (1.10.2008) by The Companies Act 2006 (Commencement No. 5, Transitional Provisions and Savings) Order 2007 (S.I. 2007/3495), art. 9, **Sch. 4 para. 49** (with savings in arts. 7, 12)

181 Modification of provisions in relation to charitable companies

(1) In their application to a company that is a charity, the provisions of this Chapter have effect subject to this section.

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(2) Section 175 (duty to avoid conflicts of interest) has effect as if—

(a) for subsection (3) (which disapplies the duty to avoid conflicts of interest in the case of a transaction or arrangement with the company) there were substituted—

"(3) This duty does not apply to a conflict of interest arising in relation to a transaction or arrangement with the company if or to the extent that the company's articles allow that duty to be so disapplied, which they may do only in relation to descriptions of transaction or arrangement specified in the company's articles.";

(b) for subsection (5) (which specifies how directors of a company may give authority under that section for a transaction or arrangement) there were substituted—

"(5) Authorisation may be given by the directors where the company's constitution includes provision enabling them to authorise the matter, by the matter being proposed to and authorised by them in accordance with the constitution.".

(3) Section 180(2)(b) (which disapplies certain duties under this Chapter in relation to cases excepted from requirement to obtain approval by members under Chapter 4) applies only if or to the extent that the company's articles allow those duties to be so disapplied, which they may do only in relation to descriptions of transaction or arrangement specified in the company's articles.

(4) [F68] . . . . . .

(5) This section does not extend to Scotland.

Textual Amendments

F68 S. 181(4) repealed (14.3.2012) by Charities Act 2011 (c. 25), ss. 354, 355, **Sch. 10** (with s. 20(2), Sch. 8)

Commencement Information

I48 S. 181 wholly in force at 1.10.2007; s. 181 not in force at Royal Assent see s. 1300; s. 181 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with savings in art. 12 and subject to transitional adaptations specified in Sch. 1)

CHAPTER 3

DECLARATION OF INTEREST IN EXISTING TRANSACTION OR ARRANGEMENT

182 Declaration of interest in existing transaction or arrangement

(1) Where a director of a company is in any way, directly or indirectly, interested in a transaction or arrangement that has been entered into by the company, he must declare the nature and extent of the interest to the other directors in accordance with this section.

This section does not apply if or to the extent that the interest has been declared under section 177 (duty to declare interest in proposed transaction or arrangement).

Status: *Point in time view as at 31/12/2020.*
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(2) The declaration must be made—

(a) at a meeting of the directors, or

(b) by notice in writing (see section 184), or

(c) by general notice (see section 185).

(3) If a declaration of interest under this section proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.

(4) Any declaration required by this section must be made as soon as is reasonably practicable.

Failure to comply with this requirement does not affect the underlying duty to make the declaration.

(5) This section does not require a declaration of an interest of which the director is not aware or where the director is not aware of the transaction or arrangement in question.

For this purpose a director is treated as being aware of matters of which he ought reasonably to be aware.

(6) A director need not declare an interest under this section—

(a) if it cannot reasonably be regarded as likely to give rise to a conflict of interest;

(b) if, or to the extent that, the other directors are already aware of it (and for this purpose the other directors are treated as aware of anything of which they ought reasonably to be aware); or

(c) if, or to the extent that, it concerns terms of his service contract that have been or are to be considered—

(i) by a meeting of the directors, or

(ii) by a committee of the directors appointed for the purpose under the company's constitution.

Modifications etc. (not altering text)

C222 Ss. 182-186 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(f)**

C223 Ss. 182-186 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(f)**

C224 Ss. 182-186 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(f)**

C225 Ss. 182-186 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(f)**

C226 Ss. 182-186 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(f)**

C227 Ss. 182-187 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(1)** (with reg. 189)

183 Offence of failure to declare interest

(1) A director who fails to comply with the requirements of section 182 (declaration of interest in existing transaction or arrangement) commits an offence.

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

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

Modifications etc. (not altering text)
C226 Ss. 182-186 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(f)**
C227 Ss. 182-187 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(1)** (with reg. 189)
C228 Ss. 182-186 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(f)**
C229 Ss. 182-186 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(f)**
C230 Ss. 182-186 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(f)**
C231 Ss. 182-186 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(f)**

184 Declaration made by notice in writing

(1) This section applies to a declaration of interest made by notice in writing.

(2) The director must send the notice to the other directors.

(3) The notice may be sent in hard copy form or, if the recipient has agreed to receive it in electronic form, in an agreed electronic form.

(4) The notice may be sent—
(a) by hand or by post, or
(b) if the recipient has agreed to receive it by electronic means, by agreed electronic means.

(5) Where a director declares an interest by notice in writing in accordance with this section—
(a) the making of the declaration is deemed to form part of the proceedings at the next meeting of the directors after the notice is given, and
(b) the provisions of section 248 (minutes of meetings of directors) apply as if the declaration had been made at that meeting.

Modifications etc. (not altering text)
C226 Ss. 182-186 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(f)**
C227 Ss. 182-187 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(1)** (with reg. 189)
C232 Ss. 182-186 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(f)**
C233 Ss. 182-186 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(f)**
C234 Ss. 182-186 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(f)**

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C235 Ss. 182-186 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(f)**

185 General notice treated as sufficient declaration

(1) General notice in accordance with this section is a sufficient declaration of interest in relation to the matters to which it relates.

(2) General notice is notice given to the directors of a company to the effect that the director—

(a) has an interest (as member, officer, employee or otherwise) in a specified body corporate or firm and is to be regarded as interested in any transaction or arrangement that may, after the date of the notice, be made with that body corporate or firm, or

(b) is connected with a specified person (other than a body corporate or firm) and is to be regarded as interested in any transaction or arrangement that may, after the date of the notice, be made with that person.

(3) The notice must state the nature and extent of the director's interest in the body corporate or firm or, as the case may be, the nature of his connection with the person.

(4) General notice is not effective unless—

(a) it is given at a meeting of the directors, or

(b) the director takes reasonable steps to secure that it is brought up and read at the next meeting of the directors after it is given.

Modifications etc. (not altering text)

C226 Ss. 182-186 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(f)**

C227 Ss. 182-187 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(1)** (with reg. 189)

C236 Ss. 182-186 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(f)**

C237 Ss. 182-186 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(f)**

C238 Ss. 182-186 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(f)**

C239 Ss. 182-186 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(f)**

186 Declaration of interest in case of company with sole director

(1) Where a declaration of interest under section 182 (duty to declare interest in existing transaction or arrangement) is required of a sole director of a company that is required to have more than one director—

(a) the declaration must be recorded in writing,

(b) the making of the declaration is deemed to form part of the proceedings at the next meeting of the directors after the notice is given, and

(c) the provisions of section 248 (minutes of meetings of directors) apply as if the declaration had been made at that meeting.

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(2) Nothing in this section affects the operation of section 231 (contract with sole member who is also a director: terms to be set out in writing or recorded in minutes).

Modifications etc. (not altering text)

C226 Ss. 182-186 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(f)**

C227 Ss. 182-187 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(1)** (with reg. 189)

C240 Ss. 182-186 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(f)**

C241 Ss. 182-186 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(f)**

C242 Ss. 182-186 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(f)**

C243 Ss. 182-186 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(f)**

187 Declaration of interest in existing transaction by shadow director

(1) The provisions of this Chapter relating to the duty under section 182 (duty to declare interest in existing transaction or arrangement) apply to a shadow director as to a director, but with the following adaptations.

(2) Subsection (2)(a) of that section (declaration at meeting of directors) does not apply.

(3) In section 185 (general notice treated as sufficient declaration), subsection (4) (notice to be given at or brought up and read at meeting of directors) does not apply.

(4) General notice by a shadow director is not effective unless given by notice in writing in accordance with section 184.

Modifications etc. (not altering text)

C227 Ss. 182-187 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **83(1)** (with reg. 189)

CHAPTER 4

TRANSACTIONS WITH DIRECTORS REQUIRING APPROVAL OF MEMBERS

Service contracts

188 Directors' long-term service contracts: requirement of members' approval

(1) This section applies to provision under which the guaranteed term of a director's employment—

(a) with the company of which he is a director, or

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(b) where he is the director of a holding company, within the group consisting of that company and its subsidiaries,

is, or may be, longer than two years.

(2) A company may not agree to such provision unless it has been approved—

(a) by resolution of the members of the company, and

(b) in the case of a director of a holding company, by resolution of the members of that company.

(3) The guaranteed term of a director's employment is—

(a) the period (if any) during which the director's employment—

(i) is to continue, or may be continued otherwise than at the instance of the company (whether under the original agreement or under a new agreement entered into in pursuance of it), and

(ii) cannot be terminated by the company by notice, or can be so terminated only in specified circumstances, or

(b) in the case of employment terminable by the company by notice, the period of notice required to be given,

or, in the case of employment having a period within paragraph (a) and a period within paragraph (b), the aggregate of those periods.

(4) If more than six months before the end of the guaranteed term of a director's employment the company enters into a further service contract (otherwise than in pursuance of a right conferred, by or under the original contract, on the other party to it), this section applies as if there were added to the guaranteed term of the new contract the unexpired period of the guaranteed term of the original contract.

(5) A resolution approving provision to which this section applies must not be passed unless a memorandum setting out the proposed contract incorporating the provision is made available to members—

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both—

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(6) No approval is required under this section on the part of the members of a body corporate that—

(a) is not a UK-registered company, or

(b) is a wholly-owned subsidiary of another body corporate.

(7) In this section "employment" means any employment under a director's service contract.

Modifications etc. (not altering text)

C244 Ss. 188, 189 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(g)**

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C245 Ss. 188, 189 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(g)**

C246 Ss. 188, 189 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(g)**

C247 Ss. 188, 189 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(g)**

C248 Ss. 188 189 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(g)**

Commencement Information

I49 S. 188 wholly in force at 1. 10.2007; s. 188 not in force at Royal Assent see s. 1300; s. 188 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

189 Directors' long-term service contracts: civil consequences of contravention

If a company agrees to provision in contravention of section 188 (directors' long-term service contracts: requirement of members' approval)—

(a) the provision is void, to the extent of the contravention, and

(b) the contract is deemed to contain a term entitling the company to terminate it at any time by the giving of reasonable notice.

Modifications etc. (not altering text)

C248 Ss. 188 189 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(g)**

C249 Ss. 188, 189 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(g)**

C250 Ss. 188, 189 modified (8.00 a.m. on 29.9.2008) by The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(g)**

C251 Ss. 188, 189 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(g)**

C252 Ss. 188, 189 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(g)**

Commencement Information

I50 S. 189 wholly in force at 1. 10.2007; s. 189 not in force at Royal Assent see s. 1300; s. 189 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

Substantial property transactions

190 Substantial property transactions: requirement of members' approval

(1) A company may not enter into an arrangement under which—

(a) a director of the company or of its holding company, or a person connected with such a director, acquires or is to acquire from the company (directly or indirectly) a substantial non-cash asset, or

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(b) the company acquires or is to acquire a substantial non-cash asset (directly or indirectly) from such a director or a person so connected,

unless the arrangement has been approved by a resolution of the members of the company or is conditional on such approval being obtained.

For the meaning of "substantial non-cash asset" see section 191.

(2) If the director or connected person is a director of the company's holding company or a person connected with such a director, the arrangement must also have been approved by a resolution of the members of the holding company or be conditional on such approval being obtained.

(3) A company shall not be subject to any liability by reason of a failure to obtain approval required by this section.

(4) No approval is required under this section on the part of the members of a body corporate that—

(a) is not a UK-registered company, or

(b) is a wholly-owned subsidiary of another body corporate.

(5) For the purposes of this section—

(a) an arrangement involving more than one non-cash asset, or

(b) an arrangement that is one of a series involving non-cash assets,

shall be treated as if they involved a non-cash asset of a value equal to the aggregate value of all the non-cash assets involved in the arrangement or, as the case may be, the series.

(6) This section does not apply to a transaction so far as it relates—

(a) to anything to which a director of a company is entitled under his service contract, or

(b) to payment for loss of office as defined in section 215 **[**F69(payments to which the requirements of Chapter 4 or 4A apply)**]**.

Textual Amendments

F69 Words in s. 190(6)(b) substituted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 81(3)**, 103(3); S.I. 2013/2227, art. 2(h)

Modifications etc. (not altering text)

C253 Ss. 190-196 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(h)**

C254 Ss. 190-196 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(h)**

C255 Ss. 190-196 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(h)**

C256 Ss. 190-196 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(h)**

C257 Ss. 190-196 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(h)**

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Commencement Information

I51 S. 190 wholly in force at 1.10.2007; s. 190 not in force at Royal Assent see s. 1300; s. 190 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

191 Meaning of "substantial"

(1) This section explains what is meant in section 190 (requirement of approval for substantial property transactions) by a "substantial" non-cash asset.

(2) An asset is a substantial asset in relation to a company if its value—

(a) exceeds 10% of the company's asset value and is more than £5,000, or

(b) exceeds £100,000.

(3) For this purpose a company's "asset value" at any time is—

(a) the value of the company's net assets determined by reference to its most recent statutory accounts, or

(b) if no statutory accounts have been prepared, the amount of the company's called-up share capital.

(4) A company's "statutory accounts" means its annual accounts prepared in accordance with Part 15, and its "most recent" statutory accounts means those in relation to which the time for sending them out to members (see section 424) is most recent.

(5) Whether an asset is a substantial asset shall be determined as at the time the arrangement is entered into.

Modifications etc. (not altering text)

C257 Ss. 190-196 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(h)**

C258 Ss. 190-196 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(h)**

C259 Ss. 190-196 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(h)**

C260 Ss. 190-196 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(h)**

C261 Ss. 190-196 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(h)**

Commencement Information

I52 S. 191 wholly in force at 1.10.2007; s. 191 not in force at Royal Assent see s. 1300; s. 191 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

192 Exception for transactions with members or other group companies

Approval is not required under section 190 (requirement of members' approval for substantial property transactions)—

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(a) for a transaction between a company and a person in his character as a member of that company, or

(b) for a transaction between—

(i) a holding company and its wholly-owned subsidiary, or

(ii) two wholly-owned subsidiaries of the same holding company.

Modifications etc. (not altering text)

C257 Ss. 190-196 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(h)**

C262 Ss. 190-196 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(h)**

C263 Ss. 190-196 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(h)**

C264 Ss. 190-196 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(h)**

C265 Ss. 190-196 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(h)**

Commencement Information

I53 S. 192 wholly in force at 1.10.2007; s. 192 not in force at Royal Assent see s. 1300; s. 192 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

193 Exception in case of company in winding up or administration

(1) This section applies to a company—

(a) that is being wound up (unless the winding up is a members' voluntary winding up), or

(b) that is in administration within the meaning of Schedule B1 to the Insolvency Act 1986 (c. 45) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

(2) Approval is not required under section 190 (requirement of members' approval for substantial property transactions)—

(a) on the part of the members of a company to which this section applies, or

(b) for an arrangement entered into by a company to which this section applies.

Modifications etc. (not altering text)

C257 Ss. 190-196 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(h)**

C266 Ss. 190-196 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(h)**

C267 Ss. 190-196 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(h)**

C268 Ss. 190-196 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(h)**

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C269 Ss. 190-196 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(h)**

Commencement Information

I54 S. 193 wholly in force at 1.10.2007; s. 193 not in force at Royal Assent see s. 1300; s. 193 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

194 Exception for transactions on recognised investment exchange

(1) Approval is not required under section 190 (requirement of members' approval for substantial property transactions) for a transaction on a recognised investment exchange effected by a director, or a person connected with him, through the agency of a person who in relation to the transaction acts as an independent broker.

(2) For this purpose—

(a) "independent broker" means a person who, independently of the director or any person connected with him, selects the person with whom the transaction is to be effected; and

(b) "recognised investment exchange" has the same meaning as in Part 18 of the Financial Services and Markets Act 2000 (c. 8).

Modifications etc. (not altering text)

C257 Ss. 190-196 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(h)**

C270 Ss. 190-196 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(h)**

C271 Ss. 190-196 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(h)**

C272 Ss. 190-196 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(h)**

C273 Ss. 190-196 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(h)**

Commencement Information

I55 S. 194 wholly in force at 1.10.2007; s. 194 not in force at Royal Assent see s. 1300; s. 194 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

195 Property transactions: civil consequences of contravention

(1) This section applies where a company enters into an arrangement in contravention of section 190 (requirement of members' approval for substantial property transactions).

(2) The arrangement, and any transaction entered into in pursuance of the arrangement (whether by the company or any other person), is voidable at the instance of the company, unless—

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(a) restitution of any money or other asset that was the subject matter of the arrangement or transaction is no longer possible,

(b) the company has been indemnified in pursuance of this section by any other persons for the loss or damage suffered by it, or

(c) rights acquired in good faith, for value and without actual notice of the contravention by a person who is not a party to the arrangement or transaction would be affected by the avoidance.

(3) Whether or not the arrangement or any such transaction has been avoided, each of the persons specified in subsection (4) is liable—

(a) to account to the company for any gain that he has made directly or indirectly by the arrangement or transaction, and

(b) (jointly and severally with any other person so liable under this section) to indemnify the company for any loss or damage resulting from the arrangement or transaction.

(4) The persons so liable are—

(a) any director of the company or of its holding company with whom the company entered into the arrangement in contravention of section 190,

(b) any person with whom the company entered into the arrangement in contravention of that section who is connected with a director of the company or of its holding company,

(c) the director of the company or of its holding company with whom any such person is connected, and

(d) any other director of the company who authorised the arrangement or any transaction entered into in pursuance of such an arrangement.

(5) Subsections (3) and (4) are subject to the following two subsections.

(6) In the case of an arrangement entered into by a company in contravention of section 190 with a person connected with a director of the company or of its holding company, that director is not liable by virtue of subsection (4)(c) if he shows that he took all reasonable steps to secure the company's compliance with that section.

(7) In any case—

(a) a person so connected is not liable by virtue of subsection (4)(b), and

(b) a director is not liable by virtue of subsection (4)(d),

if he shows that, at the time the arrangement was entered into, he did not know the relevant circumstances constituting the contravention.

(8) Nothing in this section shall be read as excluding the operation of any other enactment or rule of law by virtue of which the arrangement or transaction may be called in question or any liability to the company may arise.

Modifications etc. (not altering text)

C257 Ss. 190-196 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(h)**

C274 Ss. 190-196 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(h)**

C275 Ss. 190-196 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(h)**

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C276 Ss. 190-196 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(h)**

C277 Ss. 190-196 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(h)**

Commencement Information

I56 S. 195 wholly in force at 1.10.2007; s. 195 not in force at Royal Assent see s. 1300; s. 195 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

196 Property transactions: effect of subsequent affirmation

Where a transaction or arrangement is entered into by a company in contravention of section 190 (requirement of members' approval) but, within a reasonable period, it is affirmed—

(a) in the case of a contravention of subsection (1) of that section, by resolution of the members of the company, and

(b) in the case of a contravention of subsection (2) of that section, by resolution of the members of the holding company,

the transaction or arrangement may no longer be avoided under section 195.

Modifications etc. (not altering text)

C257 Ss. 190-196 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(h)**

C278 Ss. 190-196 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(h)**

C279 Ss. 190-196 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(h)**

C280 Ss. 190-196 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(h)**

C281 Ss. 190-196 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(h)**

Commencement Information

I57 S. 196 wholly in force at 1.10.2007; s. 196 not in force at Royal Assent see s. 1300; s. 196 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

Loans, quasi-loans and credit transactions

197 Loans to directors: requirement of members' approval

(1) A company may not—

(a) make a loan to a director of the company or of its holding company, or

(b) give a guarantee or provide security in connection with a loan made by any person to such a director,

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unless the transaction has been approved by a resolution of the members of the company.

(2) If the director is a director of the company's holding company, the transaction must also have been approved by a resolution of the members of the holding company.

(3) A resolution approving a transaction to which this section applies must not be passed unless a memorandum setting out the matters mentioned in subsection (4) is made available to members—

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both—

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(4) The matters to be disclosed are—

(a) the nature of the transaction,

(b) the amount of the loan and the purpose for which it is required, and

(c) the extent of the company's liability under any transaction connected with the loan.

(5) No approval is required under this section on the part of the members of a body corporate that—

(a) is not a UK-registered company, or

(b) is a wholly-owned subsidiary of another body corporate.

Modifications etc. (not altering text)

C282 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C283 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C284 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C285 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

Commencement Information

I58 S. 197 wholly in force at 1.10.2007; s. 197 not in force at Royal Assent see s. 1300; s. 197 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

198 Quasi-loans to directors: requirement of members' approval

(1) This section applies to a company if it is—

(a) a public company, or

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(b) a company associated with a public company.

(2) A company to which this section applies may not—

(a) make a quasi-loan to a director of the company or of its holding company, or

(b) give a guarantee or provide security in connection with a quasi-loan made by any person to such a director,

unless the transaction has been approved by a resolution of the members of the company.

(3) If the director is a director of the company's holding company, the transaction must also have been approved by a resolution of the members of the holding company.

(4) A resolution approving a transaction to which this section applies must not be passed unless a memorandum setting out the matters mentioned in subsection (5) is made available to members—

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both—

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(5) The matters to be disclosed are—

(a) the nature of the transaction,

(b) the amount of the quasi-loan and the purpose for which it is required, and

(c) the extent of the company's liability under any transaction connected with the quasi-loan.

(6) No approval is required under this section on the part of the members of a body corporate that—

(a) is not a UK-registered company, or

(b) is a wholly-owned subsidiary of another body corporate.

Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

C287 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C288 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C289 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C290 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I59 S. 198 wholly in force at 1.10.2007; s. 198 not in force at Royal Assent see s. 1300; s. 198 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

199 Meaning of "quasi-loan" and related expressions

(1) A "quasi-loan" is a transaction under which one party ("the creditor") agrees to pay, or pays otherwise than in pursuance of an agreement, a sum for another ("the borrower") or agrees to reimburse, or reimburses otherwise than in pursuance of an agreement, expenditure incurred by another party for another ("the borrower")—

(a) on terms that the borrower (or a person on his behalf) will reimburse the creditor; or

(b) in circumstances giving rise to a liability on the borrower to reimburse the creditor.

(2) Any reference to the person to whom a quasi-loan is made is a reference to the borrower.

(3) The liabilities of the borrower under a quasi-loan include the liabilities of any person who has agreed to reimburse the creditor on behalf of the borrower.

Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

C291 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C292 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C293 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C294 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

Commencement Information

I60 S. 199 wholly in force at 1.10.2007; s. 199 not in force at Royal Assent see s. 1300; s. 199 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

200 Loans or quasi-loans to persons connected with directors: requirement of members' approval

(1) This section applies to a company if it is—

(a) a public company, or

(b) a company associated with a public company.

(2) A company to which this section applies may not—

(a) make a loan or quasi-loan to a person connected with a director of the company or of its holding company, or

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(b) give a guarantee or provide security in connection with a loan or quasi-loan made by any person to a person connected with such a director,

unless the transaction has been approved by a resolution of the members of the company.

(3) If the connected person is a person connected with a director of the company's holding company, the transaction must also have been approved by a resolution of the members of the holding company.

(4) A resolution approving a transaction to which this section applies must not be passed unless a memorandum setting out the matters mentioned in subsection (5) is made available to members—

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both—

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(5) The matters to be disclosed are—

(a) the nature of the transaction,

(b) the amount of the loan or quasi-loan and the purpose for which it is required, and

(c) the extent of the company's liability under any transaction connected with the loan or quasi-loan.

(6) No approval is required under this section on the part of the members of a body corporate that—

(a) is not a UK-registered company, or

(b) is a wholly-owned subsidiary of another body corporate.

Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

C295 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C296 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C297 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C298 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

Commencement Information

I61 S. 200 wholly in force at 1.10.2007; s. 200 not in force at Royal Assent see s. 1300; s. 200 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

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201 Credit transactions: requirement of members' approval

(1) This section applies to a company if it is—

(a) a public company, or

(b) a company associated with a public company.

(2) A company to which this section applies may not—

(a) enter into a credit transaction as creditor for the benefit of a director of the company or of its holding company, or a person connected with such a director, or

(b) give a guarantee or provide security in connection with a credit transaction entered into by any person for the benefit of such a director, or a person connected with such a director,

unless the transaction (that is, the credit transaction, the giving of the guarantee or the provision of security, as the case may be) has been approved by a resolution of the members of the company.

(3) If the director or connected person is a director of its holding company or a person connected with such a director, the transaction must also have been approved by a resolution of the members of the holding company.

(4) A resolution approving a transaction to which this section applies must not be passed unless a memorandum setting out the matters mentioned in subsection (5) is made available to members—

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both—

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(5) The matters to be disclosed are—

(a) the nature of the transaction,

(b) the value of the credit transaction and the purpose for which the land, goods or services sold or otherwise disposed of, leased, hired or supplied under the credit transaction are required, and

(c) the extent of the company's liability under any transaction connected with the credit transaction.

(6) No approval is required under this section on the part of the members of a body corporate that—

(a) is not a UK-registered company, or

(b) is a wholly-owned subsidiary of another body corporate.

Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

C299 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

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C300 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C301 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C302 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

Commencement Information

I62 S. 201 wholly in force at 1.10.2007; s. 201 not in force at Royal Assent see s. 1300; s. 201 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

202 Meaning of "credit transaction"

(1) A "credit transaction" is a transaction under which one party ("the creditor")—

(a) supplies any goods or sells any land under a hire-purchase agreement or a conditional sale agreement,

(b) leases or hires any land or goods in return for periodical payments, or

(c) otherwise disposes of land or supplies goods or services on the understanding that payment (whether in a lump sum or instalments or by way of periodical payments or otherwise) is to be deferred.

(2) Any reference to the person for whose benefit a credit transaction is entered into is to the person to whom goods, land or services are supplied, sold, leased, hired or otherwise disposed of under the transaction.

(3) In this section—

"conditional sale agreement" has the same meaning as in the Consumer Credit Act 1974 (c. 39); and

"services" means anything other than goods or land.

Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

C303 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C304 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C305 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C306 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

Commencement Information

I63 S. 202 wholly in force at 1.10.2007; s. 202 not in force at Royal Assent see s. 1300; s. 202 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

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203 Related arrangements: requirement of members' approval

(1) A company may not—

(a) take part in an arrangement under which—

(i) another person enters into a transaction that, if it had been entered into by the company, would have required approval under section 197, 198, 200 or 201, and

(ii) that person, in pursuance of the arrangement, obtains a benefit from the company or a body corporate associated with it, or

(b) arrange for the assignment to it, or assumption by it, of any rights, obligations or liabilities under a transaction that, if it had been entered into by the company, would have required such approval,

unless the arrangement in question has been approved by a resolution of the members of the company.

(2) If the director or connected person for whom the transaction is entered into is a director of its holding company or a person connected with such a director, the arrangement must also have been approved by a resolution of the members of the holding company.

(3) A resolution approving an arrangement to which this section applies must not be passed unless a memorandum setting out the matters mentioned in subsection (4) is made available to members—

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both—

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(4) The matters to be disclosed are—

(a) the matters that would have to be disclosed if the company were seeking approval of the transaction to which the arrangement relates,

(b) the nature of the arrangement, and

(c) the extent of the company's liability under the arrangement or any transaction connected with it.

(5) No approval is required under this section on the part of the members of a body corporate that—

(a) is not a UK-registered company, or

(b) is a wholly-owned subsidiary of another body corporate.

(6) In determining for the purposes of this section whether a transaction is one that would have required approval under section 197, 198, 200 or 201 if it had been entered into by the company, the transaction shall be treated as having been entered into on the date of the arrangement.

Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

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C307 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C308 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C309 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C310 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

Commencement Information

I64 S. 203 wholly in force at 1.10.2007; s. 203 not in force at Royal Assent see s. 1300; s. 203 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

204 Exception for expenditure on company business

(1) Approval is not required under section 197, 198, 200 or 201 (requirement of members' approval for loans etc) for anything done by a company—

(a) to provide a director of the company or of its holding company, or a person connected with any such director, with funds to meet expenditure incurred or to be incurred by him—

(i) for the purposes of the company, or

(ii) for the purpose of enabling him properly to perform his duties as an officer of the company, or

(b) to enable any such person to avoid incurring such expenditure.

(2) This section does not authorise a company to enter into a transaction if the aggregate of—

(a) the value of the transaction in question, and

(b) the value of any other relevant transactions or arrangements,

exceeds £50,000.

Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

C311 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C312 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C313 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C314 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

Commencement Information

I65 S. 204 wholly in force at 1.10.2007; s. 204 not in force at Royal Assent see s. 1300; s. 204 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

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205 Exception for expenditure on defending proceedings etc

(1) Approval is not required under section 197, 198, 200 or 201 (requirement of members' approval for loans etc) for anything done by a company—

(a) to provide a director of the company or of its holding company with funds to meet expenditure incurred or to be incurred by him—

(i) in defending any criminal or civil proceedings in connection with any alleged negligence, default, breach of duty or breach of trust by him in relation to the company or an associated company, or

(ii) in connection with an application for relief (see subsection (5)), or

(b) to enable any such director to avoid incurring such expenditure,

if it is done on the following terms.

(2) The terms are—

(a) that the loan is to be repaid, or (as the case may be) any liability of the company incurred under any transaction connected with the thing done is to be discharged, in the event of—

(i) the director being convicted in the proceedings,

(ii) judgment being given against him in the proceedings, or

(iii) the court refusing to grant him relief on the application; and

(b) that it is to be so repaid or discharged not later than—

(i) the date when the conviction becomes final,

(ii) the date when the judgment becomes final, or

(iii) the date when the refusal of relief becomes final.

(3) For this purpose a conviction, judgment or refusal of relief becomes final—

(a) if not appealed against, at the end of the period for bringing an appeal;

(b) if appealed against, when the appeal (or any further appeal) is disposed of.

(4) An appeal is disposed of—

(a) if it is determined and the period for bringing any further appeal has ended, or

(b) if it is abandoned or otherwise ceases to have effect.

(5) The reference in subsection (1)(a)(ii) to an application for relief is to an application for relief under—

section 661(3) or (4) (power of court to grant relief in case of acquisition of shares by innocent nominee), or

section 1157 (general power of court to grant relief in case of honest and reasonable conduct).

Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

C315 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C316 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C317 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

Status: *Point in time view as at 31/12/2020.*
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C318 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

C319 S. 205(5) modified (6.4.2008) by The Companies Act 2006 (Commencement No. 5, Transitional Provisions and Savings) Order 2007 (S.I. 2007/3495), art. 6, **Sch. 1 para. 1** (with savings in arts. 7, 12)

Commencement Information

I66 S. 205 wholly in force at 1.10.2007; s. 205 not in force at Royal Assent see s. 1300; s. 205 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 para. 11 (as amended by S.I. 2007/3495, art. 10(2), S.I. 2008/674, art. 5, Sch. 3 para. 1 and S.I. 2008/2860, art. 6) with transitional provisions and savings in Sch. 3 para. 8, and subject to transitional adaptations (6.4.2008) by S.I. 2007/3495, Sch. 1 para. 1- omitted by virtue of S.I. 2008/674, Sch. 3 para. 5 and revoked by S.I. 2008/2860, art. 6 (subject to Sch. 2 of that Order) (as amended by S.I. 2009/1802, art. 18))

206 Exception for expenditure in connection with regulatory action or investigation

Approval is not required under section 197, 198, 200 or 201 (requirement of members' approval for loans etc) for anything done by a company—

(a) to provide a director of the company or of its holding company with funds to meet expenditure incurred or to be incurred by him in defending himself—

(i) in an investigation by a regulatory authority, or

(ii) against action proposed to be taken by a regulatory authority,

in connection with any alleged negligence, default, breach of duty or breach of trust by him in relation to the company or an associated company, or

(b) to enable any such director to avoid incurring such expenditure.

Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

C320 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C321 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C322 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C323 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

Commencement Information

I67 S. 206 wholly in force at 1.10.2007; s. 206 not in force at Royal Assent see s. 1300; s. 206 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

207 Exceptions for minor and business transactions

(1) Approval is not required under section 197, 198 or 200 for a company to make a loan or quasi-loan, or to give a guarantee or provide security in connection with a loan or quasi-loan, if the aggregate of—

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(a) the value of the transaction, and

(b) the value of any other relevant transactions or arrangements,

does not exceed £10,000.

(2) Approval is not required under section 201 for a company to enter into a credit transaction, or to give a guarantee or provide security in connection with a credit transaction, if the aggregate of—

(a) the value of the transaction (that is, of the credit transaction, guarantee or security), and

(b) the value of any other relevant transactions or arrangements,

does not exceed £15,000.

(3) Approval is not required under section 201 for a company to enter into a credit transaction, or to give a guarantee or provide security in connection with a credit transaction, if—

(a) the transaction is entered into by the company in the ordinary course of the company's business, and

(b) the value of the transaction is not greater, and the terms on which it is entered into are not more favourable, than it is reasonable to expect the company would have offered to, or in respect of, a person of the same financial standing but unconnected with the company.

Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

C324 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C325 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C326 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C327 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

Commencement Information

I68 S. 207 wholly in force at 1.10.2007; s. 207 not in force at Royal Assent see s. 1300; s. 207 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

208 Exceptions for intra-group transactions

(1) Approval is not required under section 197, 198 or 200 for—

(a) the making of a loan or quasi-loan to an associated body corporate, or

(b) the giving of a guarantee or provision of security in connection with a loan or quasi-loan made to an associated body corporate.

(2) Approval is not required under section 201—

(a) to enter into a credit transaction as creditor for the benefit of an associated body corporate, or

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(b) to give a guarantee or provide security in connection with a credit transaction entered into by any person for the benefit of an associated body corporate.

Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

C328 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C329 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C330 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C331 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

Commencement Information

I69 S. 208 wholly in force at 1.10.2007; s. 208 not in force at Royal Assent see s. 1300; s. 208 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

209 Exceptions for money-lending companies

(1) Approval is not required under section 197, 198 or 200 for the making of a loan or quasi-loan, or the giving of a guarantee or provision of security in connection with a loan or quasi-loan, by a money-lending company if—

(a) the transaction (that is, the loan, quasi-loan, guarantee or security) is entered into by the company in the ordinary course of the company's business, and

(b) the value of the transaction is not greater, and its terms are not more favourable, than it is reasonable to expect the company would have offered to a person of the same financial standing but unconnected with the company.

(2) A "money-lending company" means a company whose ordinary business includes the making of loans or quasi-loans, or the giving of guarantees or provision of security in connection with loans or quasi-loans.

(3) The condition specified in subsection (1)(b) does not of itself prevent a company from making a home loan—

(a) to a director of the company or of its holding company, or

(b) to an employee of the company,

if loans of that description are ordinarily made by the company to its employees and the terms of the loan in question are no more favourable than those on which such loans are ordinarily made.

(4) For the purposes of subsection (3) a "home loan" means a loan—

(a) for the purpose of facilitating the purchase, for use as the only or main residence of the person to whom the loan is made, of the whole or part of any dwelling-house together with any land to be occupied and enjoyed with it,

(b) for the purpose of improving a dwelling-house or part of a dwelling-house so used or any land occupied and enjoyed with it, or

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(c) in substitution for any loan made by any person and falling within paragraph (a) or (b).

Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

C332 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C333 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C334 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C335 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

Commencement Information

I70 S. 209 wholly in force at 1.10.2007; s. 209 not in force at Royal Assent see s. 1300; s. 209 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

210 Other relevant transactions or arrangements

(1) This section has effect for determining what are "other relevant transactions or arrangements" for the purposes of any exception to section 197, 198, 200 or 201.

In the following provisions "the relevant exception" means the exception for the purposes of which that falls to be determined.

(2) Other relevant transactions or arrangements are those previously entered into, or entered into at the same time as the transaction or arrangement in question in relation to which the following conditions are met.

(3) Where the transaction or arrangement in question is entered into—

(a) for a director of the company entering into it, or

(b) for a person connected with such a director,

the conditions are that the transaction or arrangement was (or is) entered into for that director, or a person connected with him, by virtue of the relevant exception by that company or by any of its subsidiaries.

(4) Where the transaction or arrangement in question is entered into—

(a) for a director of the holding company of the company entering into it, or

(b) for a person connected with such a director,

the conditions are that the transaction or arrangement was (or is) entered into for that director, or a person connected with him, by virtue of the relevant exception by the holding company or by any of its subsidiaries.

(5) A transaction or arrangement entered into by a company that at the time it was entered into—

(a) was a subsidiary of the company entering into the transaction or arrangement in question, or

(b) was a subsidiary of that company's holding company,

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is not a relevant transaction or arrangement if, at the time the question arises whether the transaction or arrangement in question falls within a relevant exception, it is no longer such a subsidiary.

Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

C336 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C337 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C338 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C339 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

Commencement Information

I71 S. 210 wholly in force at 1.10.2007; s. 210 not in force at Royal Assent see s. 1300; s. 210 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

211 The value of transactions and arrangements

(1) For the purposes of sections 197 to 214 (loans etc)—

(a) the value of a transaction or arrangement is determined as follows, and

(b) the value of any other relevant transaction or arrangement is taken to be the value so determined reduced by any amount by which the liabilities of the person for whom the transaction or arrangement was made have been reduced.

(2) The value of a loan is the amount of its principal.

(3) The value of a quasi-loan is the amount, or maximum amount, that the person to whom the quasi-loan is made is liable to reimburse the creditor.

(4) The value of a credit transaction is the price that it is reasonable to expect could be obtained for the goods, services or land to which the transaction relates if they had been supplied (at the time the transaction is entered into) in the ordinary course of business and on the same terms (apart from price) as they have been supplied, or are to be supplied, under the transaction in question.

(5) The value of a guarantee or security is the amount guaranteed or secured.

(6) The value of an arrangement to which section 203 (related arrangements) applies is the value of the transaction to which the arrangement relates.

(7) If the value of a transaction or arrangement is not capable of being expressed as a specific sum of money—

(a) whether because the amount of any liability arising under the transaction or arrangement is unascertainable, or for any other reason, and

(b) whether or not any liability under the transaction or arrangement has been reduced,

its value is deemed to exceed £50,000.

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Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

C340 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C341 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C342 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C343 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

Commencement Information

I72 S. 211 wholly in force at 1.10.2007; s. 211 not in force at Royal Assent see s. 1300; s. 211 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

212 The person for whom a transaction or arrangement is entered into

For the purposes of sections 197 to 214 (loans etc) the person for whom a transaction or arrangement is entered into is—

(a) in the case of a loan or quasi-loan, the person to whom it is made;

(b) in the case of a credit transaction, the person to whom goods, land or services are supplied, sold, hired, leased or otherwise disposed of under the transaction;

(c) in the case of a guarantee or security, the person for whom the transaction is made in connection with which the guarantee or security is entered into;

(d) in the case of an arrangement within section 203 (related arrangements), the person for whom the transaction is made to which the arrangement relates.

Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

C344 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C345 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C346 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C347 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

Commencement Information

I73 S. 212 wholly in force at 1.10.2007; s. 212 not in force at Royal Assent see s. 1300; s. 212 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

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213 Loans etc: civil consequences of contravention

(1) This section applies where a company enters into a transaction or arrangement in contravention of section 197, 198, 200, 201 or 203 (requirement of members' approval for loans etc).

(2) The transaction or arrangement is voidable at the instance of the company, unless—

(a) restitution of any money or other asset that was the subject matter of the transaction or arrangement is no longer possible,

(b) the company has been indemnified for any loss or damage resulting from the transaction or arrangement, or

(c) rights acquired in good faith, for value and without actual notice of the contravention by a person who is not a party to the transaction or arrangement would be affected by the avoidance.

(3) Whether or not the transaction or arrangement has been avoided, each of the persons specified in subsection (4) is liable—

(a) to account to the company for any gain that he has made directly or indirectly by the transaction or arrangement, and

(b) (jointly and severally with any other person so liable under this section) to indemnify the company for any loss or damage resulting from the transaction or arrangement.

(4) The persons so liable are—

(a) any director of the company or of its holding company with whom the company entered into the transaction or arrangement in contravention of section 197, 198, 201 or 203,

(b) any person with whom the company entered into the transaction or arrangement in contravention of any of those sections who is connected with a director of the company or of its holding company,

(c) the director of the company or of its holding company with whom any such person is connected, and

(d) any other director of the company who authorised the transaction or arrangement.

(5) Subsections (3) and (4) are subject to the following two subsections.

(6) In the case of a transaction or arrangement entered into by a company in contravention of section 200, 201 or 203 with a person connected with a director of the company or of its holding company, that director is not liable by virtue of subsection (4)(c) if he shows that he took all reasonable steps to secure the company's compliance with the section concerned.

(7) In any case—

(a) a person so connected is not liable by virtue of subsection (4)(b), and

(b) a director is not liable by virtue of subsection (4)(d),

if he shows that, at the time the transaction or arrangement was entered into, he did not know the relevant circumstances constituting the contravention.

(8) Nothing in this section shall be read as excluding the operation of any other enactment or rule of law by virtue of which the transaction or arrangement may be called in question or any liability to the company may arise.

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Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

C348 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C349 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C350 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C351 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

Commencement Information

I74 S. 213 wholly in force at 1.10.2007; s. 213 not in force at Royal Assent see s. 1300; s. 213 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and with transitional provisions and savings in Sch. 3 paras. 8-11)

214 Loans etc: effect of subsequent affirmation

Where a transaction or arrangement is entered into by a company in contravention of section 197, 198, 200, 201 or 203 (requirement of members' approval for loans etc) but, within a reasonable period, it is affirmed—

(a) in the case of a contravention of the requirement for a resolution of the members of the company, by a resolution of the members of the company, and

(b) in the case of a contravention of the requirement for a resolution of the members of the company's holding company, by a resolution of the members of the holding company,

the transaction or arrangement may no longer be avoided under section 213.

Modifications etc. (not altering text)

C286 Ss. 197-214 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(i)**

C352 Ss. 197-214 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(i)**

C353 Ss. 197-214 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(i)**

C354 Ss. 197-214 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(i)**

C355 Ss. 197-214 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(i)**

Commencement Information

I75 S. 214 wholly in force at 1.10.2007; s. 214 not in force at Royal Assent see s. 1300, s. 214 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

Status: *Point in time view as at 31/12/2020.*
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Payments for loss of office

215 Payments for loss of office

(1) In this Chapter a "payment for loss of office" means a payment made to a director or past director of a company—

(a) by way of compensation for loss of office as director of the company,

(b) by way of compensation for loss, while director of the company or in connection with his ceasing to be a director of it, of—

(i) any other office or employment in connection with the management of the affairs of the company, or

(ii) any office (as director or otherwise) or employment in connection with the management of the affairs of any subsidiary undertaking of the company,

(c) as consideration for or in connection with his retirement from his office as director of the company, or

(d) as consideration for or in connection with his retirement, while director of the company or in connection with his ceasing to be a director of it, from—

(i) any other office or employment in connection with the management of the affairs of the company, or

(ii) any office (as director or otherwise) or employment in connection with the management of the affairs of any subsidiary undertaking of the company.

(2) The references to compensation and consideration include benefits otherwise than in cash and references in this Chapter to payment have a corresponding meaning.

(3) For the purposes of sections 217 to 221 (payments requiring members' approval)—

(a) payment to a person connected with a director, or

(b) payment to any person at the direction of, or for the benefit of, a director or a person connected with him,

is treated as payment to the director.

(4) References in those sections to payment by a person include payment by another person at the direction of, or on behalf of, the person referred to.

[F70(5) Nothing in this section or sections 216 to 222 applies in relation to a payment for loss of office to a director of a quoted company **[**F71or unquoted traded company**]** other than a payment to which section 226C does not apply by virtue of section 226D(6).**]**

[F72(6) "Unquoted traded company" means a traded company (as defined by section 360C) that is not a quoted company.**]**

Textual Amendments

F70 S. 215(5) inserted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 81(4)**, 103(3) (with s. 82(5)); S.I. 2013/2227, art. 2(h)

F71 Words in s. 215(5) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **4(a)**

F72 S. 215(6) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **4(b)**

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Modifications etc. (not altering text)

C356 Ss. 215-222 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(j)**

C357 Ss. 215-222 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(j)**

C358 Ss. 215-222 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(j)**

C359 Ss. 215-222 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(j)**

C360 Ss. 215-222 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(j)**

Commencement Information

I76 S. 215 wholly in force at 1.10.2007; s. 215 not in force at Royal Assent see s. 1300; s. 215 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

216 Amounts taken to be payments for loss of office

(1) This section applies where in connection with any such transfer as is mentioned in section 218 or 219 (payment in connection with transfer of undertaking, property or shares) a director of the company—

(a) is to cease to hold office, or

(b) is to cease to be the holder of—

(i) any other office or employment in connection with the management of the affairs of the company, or

(ii) any office (as director or otherwise) or employment in connection with the management of the affairs of any subsidiary undertaking of the company.

(2) If in connection with any such transfer—

(a) the price to be paid to the director for any shares in the company held by him is in excess of the price which could at the time have been obtained by other holders of like shares, or

(b) any valuable consideration is given to the director by a person other than the company,

the excess or, as the case may be, the money value of the consideration is taken for the purposes of those sections to have been a payment for loss of office.

Modifications etc. (not altering text)

C360 Ss. 215-222 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(j)**

C361 Ss. 215-222 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(j)**

C362 Ss. 215-222 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(j)**

C363 Ss. 215-222 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(j)**

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C364 Ss. 215-222 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(j)**

Commencement Information

I77 S. 216 wholly in force at 1.10.2007; s. 216 not in force at Royal Assent see s. 1300; s. 216 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

217 Payment by company: requirement of members' approval

(1) A company may not make a payment for loss of office to a director of the company unless the payment has been approved by a resolution of the members of the company.

(2) A company may not make a payment for loss of office to a director of its holding company unless the payment has been approved by a resolution of the members of each of those companies.

(3) A resolution approving a payment to which this section applies must not be passed unless a memorandum setting out particulars of the proposed payment (including its amount) is made available to the members of the company whose approval is sought—

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;

(b) in the case of a resolution at a meeting, by being made available for inspection by the members both—

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(4) No approval is required under this section on the part of the members of a body corporate that—

(a) is not a UK-registered company, or

(b) is a wholly-owned subsidiary of another body corporate.

Modifications etc. (not altering text)

C360 Ss. 215-222 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(j)**

C365 Ss. 215-222 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(j)**

C366 Ss. 215-222 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(j)**

C367 Ss. 215-222 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(j)**

C368 Ss. 215-222 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(j)**

Commencement Information

I78 S. 217 wholly in force at 1.10.2007; s. 217 not in force at Royal Assent see s. 1300; s. 217 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

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218 Payment in connection with transfer of undertaking etc: requirement of members' approval

(1) No payment for loss of office may be made by any person to a director of a company in connection with the transfer of the whole or any part of the undertaking or property of the company unless the payment has been approved by a resolution of the members of the company.

(2) No payment for loss of office may be made by any person to a director of a company in connection with the transfer of the whole or any part of the undertaking or property of a subsidiary of the company unless the payment has been approved by a resolution of the members of each of the companies.

(3) A resolution approving a payment to which this section applies must not be passed unless a memorandum setting out particulars of the proposed payment (including its amount) is made available to the members of the company whose approval is sought—

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;

(b) in the case of a resolution at a meeting, by being made available for inspection by the members both—

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(4) No approval is required under this section on the part of the members of a body corporate that—

(a) is not a UK-registered company, or

(b) is a wholly-owned subsidiary of another body corporate.

(5) A payment made in pursuance of an arrangement—

(a) entered into as part of the agreement for the transfer in question, or within one year before or two years after that agreement, and

(b) to which the company whose undertaking or property is transferred, or any person to whom the transfer is made, is privy,

is presumed, except in so far as the contrary is shown, to be a payment to which this section applies.

Modifications etc. (not altering text)

C360 Ss. 215-222 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(j)**

C369 Ss. 215-222 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(j)**

C370 Ss. 215-222 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(j)**

C371 Ss. 215-222 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(j)**

C372 Ss. 215-222 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(j)**

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Commencement Information

I79 S. 218 wholly in force at 1.10.2007; s. 218 not in force at Royal Assent see s. 1300; s. 218 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

219 Payment in connection with share transfer: requirement of members' approval

(1) No payment for loss of office may be made by any person to a director of a company in connection with a transfer of shares in the company, or in a subsidiary of the company, resulting from a takeover bid unless the payment has been approved by a resolution of the relevant shareholders.

(2) The relevant shareholders are the holders of the shares to which the bid relates and any holders of shares of the same class as any of those shares.

(3) A resolution approving a payment to which this section applies must not be passed unless a memorandum setting out particulars of the proposed payment (including its amount) is made available to the members of the company whose approval is sought—

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;

(b) in the case of a resolution at a meeting, by being made available for inspection by the members both—

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(4) Neither the person making the offer, nor any associate of his (as defined in section 988), is entitled to vote on the resolution, but—

(a) where the resolution is proposed as a written resolution, they are entitled (if they would otherwise be so entitled) to be sent a copy of it, and

(b) at any meeting to consider the resolution they are entitled (if they would otherwise be so entitled) to be given notice of the meeting, to attend and speak and if present (in person or by proxy) to count towards the quorum.

(5) If at a meeting to consider the resolution a quorum is not present, and after the meeting has been adjourned to a later date a quorum is again not present, the payment is (for the purposes of this section) deemed to have been approved.

(6) No approval is required under this section on the part of shareholders in a body corporate that—

(a) is not a UK-registered company, or

(b) is a wholly-owned subsidiary of another body corporate.

(7) A payment made in pursuance of an arrangement—

(a) entered into as part of the agreement for the transfer in question, or within one year before or two years after that agreement, and

(b) to which the company whose shares are the subject of the bid, or any person to whom the transfer is made, is privy,

is presumed, except in so far as the contrary is shown, to be a payment to which this section applies.

Status: *Point in time view as at 31/12/2020.*
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Modifications etc. (not altering text)

C360 Ss. 215-222 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(j)**

C373 Ss. 215-222 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(j)**

C374 Ss. 215-222 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(j)**

C375 Ss. 215-222 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(j)**

C376 Ss. 215-222 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(j)**

Commencement Information

I80 S. 219 wholly in force at 1.10.2007; s. 219 not in force at Royal Assent see s. 1300, s. 219 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

220 Exception for payments in discharge of legal obligations etc

(1) Approval is not required under section 217, 218 or 219 (payments requiring members' approval) for a payment made in good faith—

(a) in discharge of an existing legal obligation (as defined below),

(b) by way of damages for breach of such an obligation,

(c) by way of settlement or compromise of any claim arising in connection with the termination of a person's office or employment, or

(d) by way of pension in respect of past services.

(2) In relation to a payment within section 217 (payment by company) an existing legal obligation means an obligation of the company, or any body corporate associated with it, that was not entered into in connection with, or in consequence of, the event giving rise to the payment for loss of office.

(3) In relation to a payment within section 218 or 219 (payment in connection with transfer of undertaking, property or shares) an existing legal obligation means an obligation of the person making the payment that was not entered into for the purposes of, in connection with or in consequence of, the transfer in question.

(4) In the case of a payment within both section 217 and section 218, or within both section 217 and section 219, subsection (2) above applies and not subsection (3).

(5) A payment part of which falls within subsection (1) above and part of which does not is treated as if the parts were separate payments.

Modifications etc. (not altering text)

C360 Ss. 215-222 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(j)**

C377 Ss. 215-222 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(j)**

C378 Ss. 215-222 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(j)**

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C379 Ss. 215-222 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(j)**

C380 Ss. 215-222 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(j)**

Commencement Information

I81 S. 220 wholly in force at 1.10.2007; s. 220 not in force at Royal Assent see s. 1300; s. 220 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

221 Exception for small payments

(1) Approval is not required under section 217, 218 or 219 (payments requiring members' approval) if—

(a) the payment in question is made by the company or any of its subsidiaries, and

(b) the amount or value of the payment, together with the amount or value of any other relevant payments, does not exceed £200.

(2) For this purpose "other relevant payments" are payments for loss of office in relation to which the following conditions are met.

(3) Where the payment in question is one to which section 217 (payment by company) applies, the conditions are that the other payment was or is paid—

(a) by the company making the payment in question or any of its subsidiaries,

(b) to the director to whom that payment is made, and

(c) in connection with the same event.

(4) Where the payment in question is one to which section 218 or 219 applies (payment in connection with transfer of undertaking, property or shares), the conditions are that the other payment was (or is) paid in connection with the same transfer—

(a) to the director to whom the payment in question was made, and

(b) by the company making the payment or any of its subsidiaries.

Modifications etc. (not altering text)

C360 Ss. 215-222 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(j)**

C381 Ss. 215-222 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(j)**

C382 Ss. 215-222 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(j)**

C383 Ss. 215-222 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(j)**

C384 Ss. 215-222 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(j)**

Commencement Information

I82 S. 221 wholly in force at 1.10.2007; s. 221 not in force at Royal Assent see s. 1300; s. 221 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

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222 Payments made without approval: civil consequences

(1) If a payment is made in contravention of section 217 (payment by company)—

(a) it is held by the recipient on trust for the company making the payment, and

(b) any director who authorised the payment is jointly and severally liable to indemnify the company that made the payment for any loss resulting from it.

(2) If a payment is made in contravention of section 218 (payment in connection with transfer of undertaking etc), it is held by the recipient on trust for the company whose undertaking or property is or is proposed to be transferred.

(3) If a payment is made in contravention of section 219 (payment in connection with share transfer)—

(a) it is held by the recipient on trust for persons who have sold their shares as a result of the offer made, and

(b) the expenses incurred by the recipient in distributing that sum amongst those persons shall be borne by him and not retained out of that sum.

(4) If a payment is in contravention of section 217 and section 218, subsection (2) of this section applies rather than subsection (1).

(5) If a payment is in contravention of section 217 and section 219, subsection (3) of this section applies rather than subsection (1), unless the court directs otherwise.

Modifications etc. (not altering text)

C360 Ss. 215-222 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(j)**

C385 Ss. 215-222 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(j)**

C386 Ss. 215-222 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(j)**

C387 Ss. 215-222 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(j)**

C388 Ss. 215-222 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(j)**

Commencement Information

I83 S. 222 wholly in force at 1.10.2007; s. 222 not in force at Royal Assent see s. 1300; s. 222 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

Supplementary

223 Transactions requiring members' approval: application of provisions to shadow directors

(1) For the purposes of—

(a) sections 188 and 189 (directors' service contracts),

(b) sections 190 to 196 (property transactions),

(c) sections 197 to 214 (loans etc), and

(d) sections 215 to 222 (payments for loss of office),

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a shadow director is treated as a director.

(2) Any reference in those provisions to loss of office as a director does not apply in relation to loss of a person's status as a shadow director.

Commencement Information

I84 S. 223 wholly in force at 1.10.2007; s. 223 not in force at Royal Assent see s. 1300; s. 223 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

224 Approval by written resolution: accidental failure to send memorandum

(1) Where—

(a) approval under this Chapter is sought by written resolution, and

(b) a memorandum is required under this Chapter to be sent or submitted to every eligible member before the resolution is passed,

any accidental failure to send or submit the memorandum to one or more members shall be disregarded for the purpose of determining whether the requirement has been met.

(2) Subsection (1) has effect subject to any provision of the company's articles.

Commencement Information

I85 S. 224 wholly in force at 1.10.2007; s. 224 not in force at Royal Assent see s. 1300; s. 224 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

225 Cases where approval is required under more than one provision

(1) Approval may be required under more than one provision of this Chapter.

(2) If so, the requirements of each applicable provision must be met.

(3) This does not require a separate resolution for the purposes of each provision.

Commencement Information

I86 S. 225 wholly in force at 1.10.2007; s. 225 not in force at Royal Assent see s. 1300; s. 225 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

226 Requirement of consent of Charity Commission: companies that are charities

F73 . . . . . .

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Textual Amendments

F73 S. 226 repealed (14.3.2012) by Charities Act 2011 (c. 25), ss. 354, 355, **Sch. 10** (with s. 20(2), Sch. 8)

[F74CHAPTER 4A

DIRECTORS OF QUOTED COMPANIES [F75AND TRADED COMPANIES]: SPECIAL PROVISION

Textual Amendments

F74 Pt. 10 Ch. 4A inserted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 80**, 103(3); S.I. 2013/2227, art. 2(h)

F75 Words in Pt. 10 Ch. 4A heading inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **5**

Interpretation

226A Key definitions

(1) In this Chapter—

"directors' remuneration policy" means the policy of a quoted company[F76, or of an unquoted traded company,] with respect to the making of remuneration payments and payments for loss of office;

" quoted company " has the same meaning as in Part 15 of this Act;

" remuneration payment " means any form of payment or other benefit made to or otherwise conferred on a person as consideration for the person—

(a) holding, agreeing to hold or having held office as director of a company, or

(b) holding, agreeing to hold or having held, during a period when the person is or was such a director—

(i) any other office or employment in connection with the management of the affairs of the company, or

(ii) any office (as director or otherwise) or employment in connection with the management of the affairs of any subsidiary undertaking of the company,

other than a payment for loss of office;

" payment for loss of office " has the same meaning as in Chapter 4 of this Part.

[F77"unquoted traded company" means a traded company (as defined by section 360C) that is not a quoted company.]

(2) Subsection (3) applies where, in connection with a relevant transfer, a director of a quoted company [F78or unquoted traded company] is—

(a) to cease to hold office as director, or

(b) to cease to be the holder of—

(i) any other office or employment in connection with the management of the affairs of the company, or

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(ii) any office (as director or otherwise) or employment in connection with the management of the affairs of any subsidiary undertaking of the company.

(3) If in connection with the transfer—

(a) the price to be paid to the director for any shares in the company held by the director is in excess of the price which could at the time have been obtained by other holders of like shares, or

(b) any valuable consideration is given to the director by a person other than the company,

the excess or, as the case may be, the money value of the consideration is taken for the purposes of section 226C to have been a payment for loss of office.

(4) In subsection (2), " relevant transfer " means—

(a) a transfer of the whole or any part of the undertaking or property of the company or a subsidiary of the company;

(b) a transfer of shares in the company, or in a subsidiary of the company, resulting from a takeover bid.

(5) References in this Chapter to the making of a remuneration payment or to the making of a payment for loss of office are to be read in accordance with this section.

(6) References in this Chapter to a payment by a company include a payment by another person at the direction of, or on behalf of, the company.

(7) References in this Chapter to a payment to a person ("B") who is, has been or is to be a director of a company include—

(a) a payment to a person connected with B, or

(b) a payment to a person at the direction of, or for the benefit of, B or a person connected with B.

(8) Section 252 applies for the purposes of determining whether a person is connected with a person who has been, or is to be, a director of a company as it applies for the purposes of determining whether a person is connected with a director.

(9) References in this Chapter to a director include a shadow director but references to loss of office as a director do not include loss of a person's status as a shadow director.

[[F79](10) References in this Chapter (other than sections 226E(2)(b) and (5)) to a director of a company include a person who is not a director of the company but who is—

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

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

Textual Amendments

F76 Words in s. 226A(1) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **6(a)(i)** (with reg. 2)

F77 Words in s. 226A(1) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **6(a)(ii)** (with reg. 2)

F78 Words in s. 226A(2) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **6(b)** (with reg. 2)

F79 S. 226A(10) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **6(c)** (with reg. 2)

Restrictions relating to remuneration or loss of office payments

226B Remuneration payments

(1) A quoted company **[**F80or unquoted traded company**]** may not make a remuneration payment to a person who is, or is to be or has been, a director of the company unless—

(a) the payment is consistent with the approved directors' remuneration policy, or

[F81(b) an amendment to that policy authorising the company to make the payment has been approved by resolution of the members of the company.**]**

(2) The approved directors' remuneration policy is the most recent remuneration policy to have been approved by a resolution passed by the members of the company in general meeting.

Textual Amendments

F80 Words in s. 226B(1) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **7(a)** (with reg. 2)

F81 S. 226B(1)(b) substituted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **7(b)** (with reg. 2)

226C Loss of office payments

(1) No payment for loss of office may be made by any person to a person who is, or has been, a director of a quoted company **[**F82or of an unquoted traded company**]** unless—

(a) the payment is consistent with the approved directors' remuneration policy, or

[F83(b) an amendment to that policy authorising the company to make the payment has been approved by resolution of the members of the company.**]**

(2) The approved directors' remuneration policy is the most recent remuneration policy to have been approved by a resolution passed by the members of the company in general meeting.

Textual Amendments

F82 Words in s. 226C(1) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **8(a)** (with reg. 2)

F83 S. 226C(1)(b) substituted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **8(b)** (with reg. 2)

226D Sections 226B and 226C: supplementary

(1) A resolution approving **[**F84an amendment**]** for the purposes of section 226B(1)(b) or 226C(1)(b) must not be passed unless a memorandum setting out particulars of the proposed payment **[**F85to which the amendment relates**]** (including its amount) is made available for inspection by the members of the company—

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(a) at the company's registered office for not less than 15 days ending with the date of the meeting at which the resolution is to be considered, and

(b) at that meeting itself.

[F86(2) The memorandum must explain the ways in which the payment would be inconsistent with the approved directors' remuneration policy (within the meaning of the section in question) but for the amendment.**]**

(3) The company must ensure that the memorandum is made available on the company's website from the first day on which the memorandum is made available for inspection under subsection (1) until its next accounts meeting.

(4) Failure to comply with subsection (3) does not affect the validity of the meeting at which a resolution is passed approving **[**F87the amendment**]** to which the memorandum relates or the validity of anything done at the meeting.

(5) Nothing in section 226B or 226C authorises the making of a remuneration payment or (as the case may be) a payment for loss of office in contravention of the articles of the company concerned.

(6) Nothing in section 226B or 226C applies in relation to a remuneration payment or (as the case may be) a payment for loss of office made to a person who is, or is to be or has been, a director of a quoted company **[**F88or of an unquoted traded company**]** before the earlier of—

(a) the end of the first financial year of the company to begin on or after the day on which it becomes a quoted company **[**F89or (as the case may be) an unquoted traded company**]**, and

(b) the date from which the company's first directors' remuneration policy to be approved under section 439A takes effect.

(7) In this section the "company's website" is the website on which the company makes material available under section 430.

Textual Amendments

F84 Words in s. 226D(1) substituted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **9(a)(i)** (with reg. 2)

F85 Words in s. 226D(1) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **9(a)(ii)** (with reg. 2)

F86 S. 226D(2) substituted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **9(b)** (with reg. 2)

F87 Words in s. 226D(4) substituted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **9(c)** (with reg. 2)

F88 Words in s. 226D(6) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **9(d)(i)** (with reg. 2)

F89 Words in s. 226D(6)(a) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **9(d)(ii)** (with reg. 2)

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Supplementary

226E Payments made without approval: civil consequences

(1) An obligation (however arising) to make a payment which would be in contravention of section 226B or 226C has no effect.

(2) If a payment is made in contravention of section 226B or 226C—

(a) it is held by the recipient on trust for the company or other person making the payment, and

(b) in the case of a payment by a company, any director who authorised the payment is jointly and severally liable to indemnify the company that made the payment for any loss resulting from it.

(3) If a payment for loss of office is made in contravention of section 226C to a director of a quoted company **[**F90or of an unquoted traded company**]** in connection with the transfer of the whole or any part of the undertaking or property of the company or a subsidiary of the company—

(a) subsection (2) does not apply, and

(b) the payment is held by the recipient on trust for the company whose undertaking or property is or is proposed to be transferred.

(4) If a payment for loss of office is made in contravention of section 226C to a director of a quoted company **[**F91or of an unquoted traded company**]** in connection with a transfer of shares in the company, or in a subsidiary of the company, resulting from a takeover bid—

(a) subsection (2) does not apply,

(b) the payment is held by the recipient on trust for persons who have sold their shares as a result of the offer made, and

(c) the expenses incurred by the recipient in distributing that sum amongst those persons shall be borne by the recipient and not retained out of that sum.

(5) If in proceedings against a director for the enforcement of a liability under subsection (2)(b)—

(a) the director shows that he or she has acted honestly and reasonably, and

(b) the court considers that, having regard to all the circumstances of the case, the director ought to be relieved of liability,

the court may relieve the director, either wholly or in part, from liability on such terms as the court thinks fit.

Textual Amendments

F90 Words in s. 226E(3) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **10(a)** (with reg. 2)

F91 Words in s. 226E(4) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **10(b)**

226F Relationship with requirements under Chapter 4

(1) This Chapter does not affect any requirement for approval by a resolution of the members of a company which applies in relation to the company under Chapter 4.

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(2) Where the making of a payment to which section 226B or 226C applies requires approval by a resolution of the members of the company concerned under Chapter 4, approval obtained for the purposes of that Chapter is to be treated as satisfying the requirements of section 226B(1)(b) or (as the case may be) 226C(1)(b).**]**

CHAPTER 5

DIRECTORS' SERVICE CONTRACTS

227 Directors' service contracts

(1) For the purposes of this Part a director's "service contract", in relation to a company, means a contract under which—

(a) a director of the company undertakes personally to perform services (as director or otherwise) for the company, or for a subsidiary of the company, or

(b) services (as director or otherwise) that a director of the company undertakes personally to perform are made available by a third party to the company, or to a subsidiary of the company.

(2) The provisions of this Part relating to directors' service contracts apply to the terms of a person's appointment as a director of a company.

They are not restricted to contracts for the performance of services outside the scope of the ordinary duties of a director.

Modifications etc. (not altering text)

C389 Ss. 227-230 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(k)**

C390 Ss. 227-230 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(k)**

C391 Ss. 227-230 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(k)**

C392 Ss. 227-230 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(k)**

C393 Ss. 227-229 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(k)**

228 Copy of contract or memorandum of terms to be available for inspection

(1) A company must keep available for inspection—

(a) a copy of every director's service contract with the company or with a subsidiary of the company, or

(b) if the contract is not in writing, a written memorandum setting out the terms of the contract.

(2) All the copies and memoranda must be kept available for inspection at—

(a) the company's registered office, or

(b) a place specified in regulations under section 1136.

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(3) The copies and memoranda must be retained by the company for at least one year from the date of termination or expiry of the contract and must be kept available for inspection during that time.

(4) The company must give notice to the registrar—

(a) of the place at which the copies and memoranda are kept available for inspection, and

(b) of any change in that place,

unless they have at all times been kept at the company's registered office.

(5) If default is made in complying with subsection (1), (2) or (3), or default is made for 14 days in complying with subsection (4), an offence is committed by every officer of the company who is in default.

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

(7) The provisions of this section apply to a variation of a director's service contract as they apply to the original contract.

Modifications etc. (not altering text)

C393 Ss. 227-229 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(k)**

C394 Ss. 227-230 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(k)**

C395 Ss. 227-230 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(k)**

C396 Ss. 227-230 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(k)**

C397 Ss. 227-230 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(k)**

C398 S. 228 modified (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **11(a)(iii)**

229 Right of member to inspect and request copy

(1) Every copy or memorandum required to be kept under section 228 must be open to inspection by any member of the company without charge.

(2) Any member of the company is entitled, on request and on payment of such fee as may be prescribed, to be provided with a copy of any such copy or memorandum.

The copy must be provided within seven days after the request is received by the company.

(3) If an inspection required under subsection (1) is refused, or default is made in complying with subsection (2), an offence is committed by every officer of the company who is in default.

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

(5) In the case of any such refusal or default the court may by order compel an immediate inspection or, as the case may be, direct that the copy required be sent to the person requiring it.

Modifications etc. (not altering text)

C393 Ss. 227-229 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(k)**

C399 Ss. 227-230 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(k)**

C400 Ss. 227-230 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(k)**

C401 Ss. 227-230 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(k)**

C402 Ss. 227-230 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(k)**

Commencement Information

I87 S. 229 wholly in force at 1.10.2007; s. 229 not in force at Royal Assent, see s. 1300; s. 229 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 229 otherwise in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with arts. 7, 9, Sch. 3)

230 Directors' service contracts: application of provisions to shadow directors

A shadow director is treated as a director for the purposes of the provisions of this Chapter.

Modifications etc. (not altering text)

C403 Ss. 227-230 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(k)**

C404 Ss. 227-230 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(k)**

C405 Ss. 227-230 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(k)**

C406 Ss. 227-230 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(k)**

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CHAPTER 6

CONTRACTS WITH SOLE MEMBERS WHO ARE DIRECTORS

231 Contract with sole member who is also a director

(1) This section applies where—

(a) a limited company having only one member enters into a contract with the sole member,

(b) the sole member is also a director of the company, and

(c) the contract is not entered into in the ordinary course of the company's business.

(2) The company must, unless the contract is in writing, ensure that the terms of the contract are either—

(a) set out in a written memorandum, or

(b) recorded in the minutes of the first meeting of the directors of the company following the making of the contract.

(3) If a company fails to comply with this section an offence is committed by every officer of the company who is in default.

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

(5) For the purposes of this section a shadow director is treated as a director.

(6) Failure to comply with this section in relation to a contract does not affect the validity of the contract.

(7) Nothing in this section shall be read as excluding the operation of any other enactment or rule of law applying to contracts between a company and a director of the company.

Modifications etc. (not altering text)

C407 S. 231 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(l)**

C408 S. 231 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(l)**

C409 S. 231 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(l)**

C410 S. 231 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(l)**

C411 S. 231 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(l)**

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CHAPTER 7

DIRECTORS' LIABILITIES

Provision protecting directors from liability

232 Provisions protecting directors from liability

(1) Any provision that purports to exempt a director of a company (to any extent) from any liability that would otherwise attach to him in connection with any negligence, default, breach of duty or breach of trust in relation to the company is void.

(2) Any provision by which a company directly or indirectly provides an indemnity (to any extent) for a director of the company, or of an associated company, against any liability attaching to him in connection with any negligence, default, breach of duty or breach of trust in relation to the company of which he is a director is void, except as permitted by—

(a) section 233 (provision of insurance),

(b) section 234 (qualifying third party indemnity provision), or

(c) section 235 (qualifying pension scheme indemnity provision).

(3) This section applies to any provision, whether contained in a company's articles or in any contract with the company or otherwise.

(4) Nothing in this section prevents a company's articles from making such provision as has previously been lawful for dealing with conflicts of interest.

Modifications etc. (not altering text)

C412 S. 232 excluded (temp.) (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), **art. 11(3)**

C413 S. 232 excluded (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), **art. 12(3)**

C414 S. 232 excluded (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), **art. 30(3)**

C415 S. 232 excluded (12.15 p.m. on 8.10.2008) by The Kaupthing Singer & Friedlander Limited Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2674), **art. 32(3)**

C416 S. 232 excluded (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), **6(3)**

Commencement Information

I88 S. 232 wholly in force at 1.10.2007; s. 232 not in force at Royal Assent see s. 1300; s. 232 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3 para. 15)

233 Provision of insurance

Section 232(2) (voidness of provisions for indemnifying directors) does not prevent a company from purchasing and maintaining for a director of the company, or of an associated company, insurance against any such liability as is mentioned in that subsection.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I89 S. 233 wholly in force at 1.10.2007; s. 233 not in force at Royal Assent see s. 1300; s. 233 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3 para. 15)

234 Qualifying third party indemnity provision

(1) Section 232(2) (voidness of provisions for indemnifying directors) does not apply to qualifying third party indemnity provision.

(2) Third party indemnity provision means provision for indemnity against liability incurred by the director to a person other than the company or an associated company.

Such provision is qualifying third party indemnity provision if the following requirements are met.

(3) The provision must not provide any indemnity against—

(a) any liability of the director to pay—

(i) a fine imposed in criminal proceedings, or

(ii) a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature (however arising); or

(b) any liability incurred by the director—

(i) in defending criminal proceedings in which he is convicted, or

(ii) in defending civil proceedings brought by the company, or an associated company, in which judgment is given against him, or

(iii) in connection with an application for relief (see subsection (6)) in which the court refuses to grant him relief.

(4) The references in subsection (3)(b) to a conviction, judgment or refusal of relief are to the final decision in the proceedings.

(5) For this purpose—

(a) a conviction, judgment or refusal of relief becomes final—

(i) if not appealed against, at the end of the period for bringing an appeal, or

(ii) if appealed against, at the time when the appeal (or any further appeal) is disposed of; and

(b) an appeal is disposed of—

(i) if it is determined and the period for bringing any further appeal has ended, or

(ii) if it is abandoned or otherwise ceases to have effect.

(6) The reference in subsection (3)(b)(iii) to an application for relief is to an application for relief under—

section 661(3) or (4) (power of court to grant relief in case of acquisition of shares by innocent nominee), or

section 1157 (general power of court to grant relief in case of honest and reasonable conduct).

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Modifications etc. (not altering text)

C417 S. 234(6) modified (6.4.2008) by The Companies Act 2006 (Commencement No. 5, Transitional Provisions and Savings) Order 2007 (S.I. 2007/3495), art. 6, **Sch. 1 para. 2** (with savings in arts. 7, 12)

Commencement Information

I90 S. 234 wholly in force at 1.10.2007; s. 234 not in force at Royal Assent see s. 1300; s. 234 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 para. 12 (as amended by S.I. 2007/3495, art. 10(2), S.I. 2008/674, art. 5, Sch. 3 para. 1 and S.I. 2008/2860, art. 6) and with transitional provisions and savings in Sch. 3 para. 15, and subject to transitional adaptations by S.I. 2007/3495, Sch. 1 para. 2 - which are omitted by virtue of S.I. 2008/674, Sch. 3 para. 5 and revoked by S.I. 2008/2860, art. 6 (subject to Sch. 2 of that Order) (as amended by S.I. 2009/1802, art. 18))

235 Qualifying pension scheme indemnity provision

(1) Section 232(2) (voidness of provisions for indemnifying directors) does not apply to qualifying pension scheme indemnity provision.

(2) Pension scheme indemnity provision means provision indemnifying a director of a company that is a trustee of an occupational pension scheme against liability incurred in connection with the company's activities as trustee of the scheme.

Such provision is qualifying pension scheme indemnity provision if the following requirements are met.

(3) The provision must not provide any indemnity against—

(a) any liability of the director to pay—

(i) a fine imposed in criminal proceedings, or

(ii) a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature (however arising); or

(b) any liability incurred by the director in defending criminal proceedings in which he is convicted.

(4) The reference in subsection (3)(b) to a conviction is to the final decision in the proceedings.

(5) For this purpose—

(a) a conviction becomes final—

(i) if not appealed against, at the end of the period for bringing an appeal, or

(ii) if appealed against, at the time when the appeal (or any further appeal) is disposed of; and

(b) an appeal is disposed of—

(i) if it is determined and the period for bringing any further appeal has ended, or

(ii) if it is abandoned or otherwise ceases to have effect.

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(6) In this section "occupational pension scheme" means an occupational pension scheme as defined in section 150(5) of the Finance Act 2004 (c. 12) that is established under a trust.

Commencement Information

I91 S. 235 wholly in force at 1.10.2007; s. 235 not in force at Royal Assent see s. 1300; s. 235 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3 para. 15)

236 Qualifying indemnity provision to be disclosed in directors' report

(1) This section requires disclosure in the directors' report of—

(a) qualifying third party indemnity provision, and

(b) qualifying pension scheme indemnity provision.

Such provision is referred to in this section as "qualifying indemnity provision".

(2) If when a directors' report is approved any qualifying indemnity provision (whether made by the company or otherwise) is in force for the benefit of one or more directors of the company, the report must state that such provision is in force.

(3) If at any time during the financial year to which a directors' report relates any such provision was in force for the benefit of one or more persons who were then directors of the company, the report must state that such provision was in force.

(4) If when a directors' report is approved qualifying indemnity provision made by the company is in force for the benefit of one or more directors of an associated company, the report must state that such provision is in force.

(5) If at any time during the financial year to which a directors' report relates any such provision was in force for the benefit of one or more persons who were then directors of an associated company, the report must state that such provision was in force.

Commencement Information

I92 S. 236 wholly in force at 1.10.2007; s. 236 not in force at Royal Assent see s. 1300; s. 236 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3 para. 15)

237 Copy of qualifying indemnity provision to be available for inspection

(1) This section has effect where qualifying indemnity provision is made for a director of a company, and applies—

(a) to the company of which he is a director (whether the provision is made by that company or an associated company), and

(b) where the provision is made by an associated company, to that company.

(2) That company or, as the case may be, each of them must keep available for inspection—

(a) a copy of the qualifying indemnity provision, or

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(b) if the provision is not in writing, a written memorandum setting out its terms.

(3) The copy or memorandum must be kept available for inspection at—

(a) the company's registered office, or

(b) a place specified in regulations under section 1136.

(4) The copy or memorandum must be retained by the company for at least one year from the date of termination or expiry of the provision and must be kept available for inspection during that time.

(5) The company must give notice to the registrar—

(a) of the place at which the copy or memorandum is kept available for inspection, and

(b) of any change in that place,

unless it has at all times been kept at the company's registered office.

(6) If default is made in complying with subsection (2), (3) or (4), or default is made for 14 days in complying with subsection (5), an offence is committed by every officer of the company who is in default.

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

(8) The provisions of this section apply to a variation of a qualifying indemnity provision as they apply to the original provision.

(9) In this section "qualifying indemnity provision" means—

(a) qualifying third party indemnity provision, and

(b) qualifying pension scheme indemnity provision.

Modifications etc. (not altering text)

C418 S. 237 modified (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **11(a)(iv)**

Commencement Information

I93 S. 237 wholly in force at 1.10.2007; s. 237 not in force at Royal Assent see s. 1300; s. 237 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3 para. 15)

238 Right of member to inspect and request copy

(1) Every copy or memorandum required to be kept by a company under section 237 must be open to inspection by any member of the company without charge.

(2) Any member of the company is entitled, on request and on payment of such fee as may be prescribed, to be provided with a copy of any such copy or memorandum.

The copy must be provided within seven days after the request is received by the company.

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(3) If an inspection required under subsection (1) is refused, or default is made in complying with subsection (2), an offence is committed by every officer of the company who is in default.

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

(5) In the case of any such refusal or default the court may by order compel an immediate inspection or, as the case may be, direct that the copy required be sent to the person requiring it.

Commencement Information

I94 S. 238 wholly in force at 1.10.1007; s. 238 not in force at Royal Assent, see s. 1300; s. 238 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 238 wholly in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3 (as amended (14.1.2008) by S.I. 2007/3495, art. 11, Sch. 5 para. 2(3)))

Ratification of acts giving rise to liability

239 Ratification of acts of directors

(1) This section applies to the ratification by a company of conduct by a director amounting to negligence, default, breach of duty or breach of trust in relation to the company.

(2) The decision of the company to ratify such conduct must be made by resolution of the members of the company.

(3) Where the resolution is proposed as a written resolution neither the director (if a member of the company) nor any member connected with him is an eligible member.

(4) Where the resolution is proposed at a meeting, it is passed only if the necessary majority is obtained disregarding votes in favour of the resolution by the director (if a member of the company) and any member connected with him.

This does not prevent the director or any such member from attending, being counted towards the quorum and taking part in the proceedings at any meeting at which the decision is considered.

(5) For the purposes of this section—

(a) "conduct" includes acts and omissions;

(b) "director" includes a former director;

(c) a shadow director is treated as a director; and

(d) in section 252 (meaning of "connected person"), subsection (3) does not apply (exclusion of person who is himself a director).

(6) Nothing in this section affects—

(a) the validity of a decision taken by unanimous consent of the members of the company, or

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(b) any power of the directors to agree not to sue, or to settle or release a claim made by them on behalf of the company.

(7) This section does not affect any other enactment or rule of law imposing additional requirements for valid ratification or any rule of law as to acts that are incapable of being ratified by the company.

Commencement Information

I95 S. 239 wholly in force at 1.10.2007; s. 239 not in force at Royal Assent see s. 1300, s. 239 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3 para. 15)

CHAPTER 8

DIRECTORS' RESIDENTIAL ADDRESSES: PROTECTION FROM DISCLOSURE

240 Protected information

(1) This Chapter makes provision for protecting, in the case of a company director who is an individual—

(a) information as to his usual residential address;

(b) the information that his service address is his usual residential address.

(2) That information is referred to in this Chapter as "protected information".

(3) Information does not cease to be protected information on the individual ceasing to be a director of the company.

References in this Chapter to a director include, to that extent, a former director.

Modifications etc. (not altering text)

C419 Ss. 240-246 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 7** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C420 Ss. 240-246 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 19 (with Sch. 1 paras. 8-10, 34, 35) (as amended (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), Sch. 3 para. 4 and as amended (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 1 para. 4**)

241 Protected information: restriction on use or disclosure by company

(1) A company must not use or disclose protected information about any of its directors, except—

(a) for communicating with the director concerned,

(b) in order to comply with any requirement of the Companies Acts as to particulars to be sent to the registrar, or

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(c) in accordance with section 244 (disclosure under court order).

(2) Subsection (1) does not prohibit any use or disclosure of protected information with the consent of the director concerned.

Modifications etc. (not altering text)

C421 Ss. 240-246 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 7** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C422 Ss. 240-246 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 19 (with Sch. 1 paras. 8-10, 34, 35) (as amended (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), Sch. 3 para. 4 and as amended (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 1 para. 4**)

242 Protected information: restriction on use or disclosure by registrar

(1) The registrar must omit protected information from the material on the register that is available for inspection where—

(a) it is contained in a document delivered to him in which such information is required to be stated, and

(b) in the case of a document having more than one part, it is contained in a part of the document in which such information is required to be stated.

(2) The registrar is not obliged—

(a) to check other documents or (as the case may be) other parts of the document to ensure the absence of protected information, or

(b) to omit from the material that is available for public inspection anything registered before this Chapter comes into force.

(3) The registrar must not use or disclose protected information except—

(a) as permitted by section 243 (permitted use or disclosure by registrar), or

(b) in accordance with section 244 (disclosure under court order).

Modifications etc. (not altering text)

C423 Ss. 240-246 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 7** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C424 Ss. 240-246 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 19 (with Sch. 1 paras. 8-10, 34, 35) (as amended (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), Sch. 3 para. 4 and as amended (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 1 para. 4**)

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243 Permitted use or disclosure by the registrar

(1) The registrar may use protected information for communicating with the director in question.

(2) The registrar may disclose protected information—

(a) to a public authority specified for the purposes of this section by regulations made by the Secretary of State, or

(b) to a credit reference agency.

(3) The Secretary of State may make provision by regulations—

(a) specifying conditions for the disclosure of protected information in accordance with this section, and

(b) providing for the charging of fees.

(4) The Secretary of State may make provision by regulations requiring the registrar, on application, to refrain from disclosing protected information relating to a director to a credit reference agency.

(5) Regulations under subsection (4) may make provision as to—

(a) who may make an application,

(b) the grounds on which an application may be made,

(c) the information to be included in and documents to accompany an application, and

(d) how an application is to be determined.

(6) Provision under subsection (5)(d) may in particular—

(a) confer a discretion on the registrar;

(b) provide for a question to be referred to a person other than the registrar for the purposes of determining the application.

(7) In this section—

"credit reference agency" means a person carrying on a business comprising the furnishing of information relevant to the financial standing of individuals, being information collected by the agency for that purpose; and

"public authority" includes any person or body having functions of a public nature.

(8) Regulations under this section are subject to negative resolution procedure.

Modifications etc. (not altering text)

C425 Ss. 240-246 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 7** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C426 Ss. 240-246 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 19 (with Sch. 1 paras. 8-10, 34, 35) (as amended (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), Sch. 3 para. 4 and as amended (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 1 para. 4**)

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Commencement Information

I96 S. 243 wholly in force at 1.10.2009; s. 243 not in force at Royal Assent, see s. 1300; s. 243 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 243 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(i)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

244 Disclosure under court order

(1) The court may make an order for the disclosure of protected information by the company or by the registrar if—

(a) there is evidence that service of documents at a service address other than the director's usual residential address is not effective to bring them to the notice of the director, or

(b) it is necessary or expedient for the information to be provided in connection with the enforcement of an order or decree of the court,

and the court is otherwise satisfied that it is appropriate to make the order.

(2) An order for disclosure by the registrar is to be made only if the company—

(a) does not have the director's usual residential address, or

(b) has been dissolved.

(3) The order may be made on the application of a liquidator, creditor or member of the company, or any other person appearing to the court to have a sufficient interest.

(4) The order must specify the persons to whom, and purposes for which, disclosure is authorised.

Modifications etc. (not altering text)

C427 Ss. 240-246 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 7** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C428 Ss. 240-246 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 19 (with Sch. 1 paras. 8-10, 34, 35) (as amended (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), Sch. 3 para. 4 and as amended (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 1 para. 4**)

245 Circumstances in which registrar may put address on the public record

(1) The registrar may put a director's usual residential address on the public record if—

(a) communications sent by the registrar to the director and requiring a response within a specified period remain unanswered, or

(b) there is evidence that service of documents at a service address provided in place of the director's usual residential address is not effective to bring them to the notice of the director.

(2) The registrar must give notice of the proposal—

(a) to the director, and

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(b) to every company of which the registrar has been notified that the individual is a director.

(3) The notice must—

(a) state the grounds on which it is proposed to put the director's usual residential address on the public record, and

(b) specify a period within which representations may be made before that is done.

(4) It must be sent to the director at his usual residential address, unless it appears to the registrar that service at that address may be ineffective to bring it to the individual's notice, in which case it may be sent to any service address provided in place of that address.

(5) The registrar must take account of any representations received within the specified period.

(6) What is meant by putting the address on the public record is explained in section 246.

Modifications etc. (not altering text)

C429 Ss. 240-246 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 7** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C430 Ss. 240-246 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 19 (with Sch. 1 paras. 8-10, 34, 35) (as amended (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), Sch. 3 para. 4 and as amended (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 1 para. 4**)

246 Putting the address on the public record

(1) The registrar, on deciding in accordance with section 245 that a director's usual residential address is to be put on the public record, shall proceed as if notice of a change of registered particulars had been given—

(a) stating that address as the director's service address, and

(b) stating that the director's usual residential address is the same as his service address.

(2) The registrar must give notice of having done so—

(a) to the director, and

(b) to the company.

(3) On receipt of the notice the company must—

(a) enter the director's usual residential address in its register of directors as his service address, and

(b) state in its register of directors' residential addresses that his usual residential address is the same as his service address.

[F92(3A) But—

(a) subsection (3)(a) does not apply if an election under section 167A is in force in respect of the company's register of directors, and

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(b) subsection (3)(b) does not apply if an election under section 167A is in force in respect of the company's register of directors' residential addresses.**]**

(4) If the company has been notified by the director in question of a more recent address as his usual residential address, it must—

(a) enter that address in its register of directors as the director's service address, and

(b) give notice to the registrar as on a change of registered particulars.

[F93(4A) If an election under section 167A is in force in respect of the company's register of directors, the company must, in place of doing the things mentioned in subsection (4)(a) and (b), deliver the particulars to the registrar in accordance with section 167D.**]**

(5) If a company fails to comply with subsection (3) **[**F94, (4) or (4A)**]**, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

(6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding **[**F95one-tenth of level 5 on the standard scale**][**F95one-tenth of the greater of £5,000 or level 4 on the standard scale**]**.

(7) A director whose usual residential address has been put on the public record by the registrar under this section may not register a service address other than his usual residential address for a period of five years from the date of the registrar's decision.

Textual Amendments

F92 S. 246(3A) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 15(a)**; S.I. 2016/321, reg. 6(c)

F93 S. 246(4A) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 15(b)**; S.I. 2016/321, reg. 6(c)

F94 Words in s. 246(5) substituted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 15(c)**; S.I. 2016/321, reg. 6(c)

F95 Words in s. 246(6) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(8)** (with reg. 5(1))

Modifications etc. (not altering text)

C431 Ss. 240-246 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 7** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C432 Ss. 240-246 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 19 (with Sch. 1 paras. 8-10, 34, 35) (as amended (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), Sch. 3 para. 4 and as amended (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 1 para. 4**)

Status: *Point in time view as at 31/12/2020.*
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CHAPTER 9

SUPPLEMENTARY PROVISIONS

Provision for employees on cessation or transfer of business

247 Power to make provision for employees on cessation or transfer of business

(1) The powers of the directors of a company include (if they would not otherwise do so) power to make provision for the benefit of persons employed or formerly employed by the company, or any of its subsidiaries, in connection with the cessation or the transfer to any person of the whole or part of the undertaking of the company or that subsidiary.

(2) This power is exercisable notwithstanding the general duty imposed by section 172 (duty to promote the success of the company).

(3) In the case of a company that is a charity it is exercisable notwithstanding any restrictions on the directors' powers (or the company's capacity) flowing from the objects of the company.

(4) The power may only be exercised if sanctioned—

(a) by a resolution of the company, or

(b) by a resolution of the directors,

in accordance with the following provisions.

(5) A resolution of the directors—

(a) must be authorised by the company's articles, and

(b) is not sufficient sanction for payments to or for the benefit of directors, former directors or shadow directors.

(6) Any other requirements of the company's articles as to the exercise of the power conferred by this section must be complied with.

(7) Any payment under this section must be made—

(a) before the commencement of any winding up of the company, and

(b) out of profits of the company that are available for dividend.

Records of meetings of directors

248 Minutes of directors' meetings

(1) Every company must cause minutes of all proceedings at meetings of its directors to be recorded.

(2) The records must be kept for at least ten years from the date of the meeting.

(3) If a company fails to comply with this section, an offence is committed by every officer of the company who is in default.

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

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249 Minutes as evidence

(1) Minutes recorded in accordance with section 248, if purporting to be authenticated by the chairman of the meeting or by the chairman of the next directors' meeting, are evidence (in Scotland, sufficient evidence) of the proceedings at the meeting.

(2) Where minutes have been made in accordance with that section of the proceedings of a meeting of directors, then, until the contrary is proved—

(a) the meeting is deemed duly held and convened,

(b) all proceedings at the meeting are deemed to have duly taken place, and

(c) all appointments at the meeting are deemed valid.

Meaning of "director" and "shadow director"

250 "Director"

In the Companies Acts "director" includes any person occupying the position of director, by whatever name called.

251 "Shadow director"

(1) In the Companies Acts "shadow director", in relation to a company, means a person in accordance with whose directions or instructions the directors of the company are accustomed to act.

(2) A person is not to be regarded as a shadow director by reason only that the directors act **[**F96—

(a) on advice given by that person in a professional capacity;

(b) in accordance with instructions, a direction, guidance or advice given by that person in the exercise of a function conferred by or under an enactment;

(c) in accordance with guidance or advice given by that person in that person's capacity as a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975)**]**

(3) A body corporate is not to be regarded as a shadow director of any of its subsidiary companies for the purposes of—

Chapter 2 (general duties of directors),

Chapter 4 (transactions requiring members' approval), or

Chapter 6 (contract with sole member who is also a director),

by reason only that the directors of the subsidiary are accustomed to act in accordance with its directions or instructions.

Textual Amendments

F96 Words in s. 251(2) substituted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 90(3)**, 164(3)(g)(iii)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Other definitions

252 Persons connected with a director

(1) This section defines what is meant by references in this Part to a person being "connected" with a director of a company (or a director being "connected" with a person).

(2) The following persons (and only those persons) are connected with a director of a company—

(a) members of the director's family (see section 253);

(b) a body corporate with which the director is connected (as defined in section 254);

(c) a person acting in his capacity as trustee of a trust—

(i) the beneficiaries of which include the director or a person who by virtue of paragraph (a) or (b) is connected with him, or

(ii) the terms of which confer a power on the trustees that may be exercised for the benefit of the director or any such person,

other than a trust for the purposes of an employees' share scheme or a pension scheme;

(d) a person acting in his capacity as partner—

(i) of the director, or

(ii) of a person who, by virtue of paragraph (a), (b) or (c), is connected with that director;

(e) a firm that is a legal person under the law by which it is governed and in which—

(i) the director is a partner,

(ii) a partner is a person who, by virtue of paragraph (a), (b) or (c) is connected with the director, or

(iii) a partner is a firm in which the director is a partner or in which there is a partner who, by virtue of paragraph (a), (b) or (c), is connected with the director.

(3) References in this Part to a person connected with a director of a company do not include a person who is himself a director of the company.

Modifications etc. (not altering text)

C433 S. 252 applied (26.7.2007) by Pensions Act 2007 (c. 22), ss. 20, 30(1)(c), **Sch. 6 para. 13(6)**

C434 S. 252 applied (5.7.2010) by Pensions Act 2008 (c. 30), ss. 75, 149, **Sch. 1 para. 13(6)**; S.I. 2010/10, **art. 2(a)**

C435 Ss. 252-255 applied (with modifications) (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), **ss. 49(5)**, 154 (with Sch. 5)

253 Members of a director's family

(1) This section defines what is meant by references in this Part to members of a director's family.

(2) For the purposes of this Part the members of a director's family are—

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(a) the director's spouse or civil partner;

(b) any other person (whether of a different sex or the same sex) with whom the director lives as partner in an enduring family relationship;

(c) the director's children or step-children;

(d) any children or step-children of a person within paragraph (b) (and who are not children or step-children of the director) who live with the director and have not attained the age of 18;

(e) the director's parents.

(3) Subsection (2)(b) does not apply if the other person is the director's grandparent or grandchild, sister, brother, aunt or uncle, or nephew or niece.

Modifications etc. (not altering text)

C435 Ss. 252-255 applied (with modifications) (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), **ss. 49(5)**, 154 (with Sch. 5)

254 Director "connected with" a body corporate

(1) This section defines what is meant by references in this Part to a director being "connected with" a body corporate.

(2) A director is connected with a body corporate if, but only if, he and the persons connected with him together—

(a) are interested in shares comprised in the equity share capital of that body corporate of a nominal value equal to at least 20% of that share capital, or

(b) are entitled to exercise or control the exercise of more than 20% of the voting power at any general meeting of that body.

(3) The rules set out in Schedule 1 (references to interest in shares or debentures) apply for the purposes of this section.

(4) References in this section to voting power the exercise of which is controlled by a director include voting power whose exercise is controlled by a body corporate controlled by him.

(5) Shares in a company held as treasury shares, and any voting rights attached to such shares, are disregarded for the purposes of this section.

(6) For the avoidance of circularity in the application of section 252 (meaning of "connected person") —

(a) a body corporate with which a director is connected is not treated for the purposes of this section as connected with him unless it is also connected with him by virtue of subsection (2)(c) or (d) of that section (connection as trustee or partner); and

(b) a trustee of a trust the beneficiaries of which include (or may include) a body corporate with which a director is connected is not treated for the purposes of this section as connected with a director by reason only of that fact.

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Modifications etc. (not altering text)
C435 Ss. 252-255 applied (with modifications) (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), **ss. 49(5)**, 154 (with Sch. 5)

255 Director "controlling" a body corporate

(1) This section defines what is meant by references in this Part to a director "controlling" a body corporate.

(2) A director of a company is taken to control a body corporate if, but only if—

(a) he or any person connected with him—

(i) is interested in any part of the equity share capital of that body, or

(ii) is entitled to exercise or control the exercise of any part of the voting power at any general meeting of that body, and

(b) he, the persons connected with him and the other directors of that company, together—

(i) are interested in more than 50% of that share capital, or

(ii) are entitled to exercise or control the exercise of more than 50% of that voting power.

(3) The rules set out in Schedule 1 (references to interest in shares or debentures) apply for the purposes of this section.

(4) References in this section to voting power the exercise of which is controlled by a director include voting power whose exercise is controlled by a body corporate controlled by him.

(5) Shares in a company held as treasury shares, and any voting rights attached to such shares, are disregarded for the purposes of this section.

(6) For the avoidance of circularity in the application of section 252 (meaning of "connected person")—

(a) a body corporate with which a director is connected is not treated for the purposes of this section as connected with him unless it is also connected with him by virtue of subsection (2)(c) or (d) of that section (connection as trustee or partner); and

(b) a trustee of a trust the beneficiaries of which include (or may include) a body corporate with which a director is connected is not treated for the purposes of this section as connected with a director by reason only of that fact.

Modifications etc. (not altering text)
C435 Ss. 252-255 applied (with modifications) (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), **ss. 49(5)**, 154 (with Sch. 5)

256 Associated bodies corporate

For the purposes of this Part—

(a) bodies corporate are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and

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(b) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

257 References to company's constitution

(1) References in this Part to a company's constitution include—

(a) any resolution or other decision come to in accordance with the constitution, and

(b) any decision by the members of the company, or a class of members, that is treated by virtue of any enactment or rule of law as equivalent to a decision by the company.

(2) This is in addition to the matters mentioned in section 17 (general provision as to matters contained in company's constitution).

General

258 Power to increase financial limits

(1) The Secretary of State may by order substitute for any sum of money specified in this Part a larger sum specified in the order.

(2) An order under this section is subject to negative resolution procedure.

(3) An order does not have effect in relation to anything done or not done before it comes into force.

Accordingly, proceedings in respect of any liability incurred before that time may be continued or instituted as if the order had not been made.

Commencement Information

I97 S. 258 wholly in force at 1.10.2007; s. 258 not in force at Royal Assent, see s. 1300; s. 258 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 258 wholly in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(d)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3 para. 15)

259 Transactions under foreign law

For the purposes of this Part it is immaterial whether the law that (apart from this Act) governs an arrangement or transaction is the law of the United Kingdom, or a part of it, or not.

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PART 11

DERIVATIVE CLAIMS AND PROCEEDINGS BY MEMBERS

Modifications etc. (not altering text)

C436 Pt. 11 excluded (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), **6**

C437 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

CHAPTER 1

DERIVATIVE CLAIMS IN ENGLAND AND WALES OR NORTHERN IRELAND

260 Derivative claims

(1) This Chapter applies to proceedings in England and Wales or Northern Ireland by a member of a company—

(a) in respect of a cause of action vested in the company, and

(b) seeking relief on behalf of the company.

This is referred to in this Chapter as a "derivative claim".

(2) A derivative claim may only be brought—

(a) under this Chapter, or

(b) in pursuance of an order of the court in proceedings under section 994 (proceedings for protection of members against unfair prejudice).

(3) A derivative claim under this Chapter may be brought only in respect of a cause of action arising from an actual or proposed act or omission involving negligence, default, breach of duty or breach of trust by a director of the company.

The cause of action may be against the director or another person (or both).

(4) It is immaterial whether the cause of action arose before or after the person seeking to bring or continue the derivative claim became a member of the company.

(5) For the purposes of this Chapter—

(a) "director" includes a former director;

(b) a shadow director is treated as a director; and

(c) references to a member of a company include a person who is not a member but to whom shares in the company have been transferred or transmitted by operation of law.

Modifications etc. (not altering text)

C438 Ss. 260-269 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(m)**

Status: *Point in time view as at 31/12/2020.*
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C439 Ss. 260-269 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(m)**

C440 Ss. 260-269 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(m)**

C441 Ss. 260-269 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(m)**

C442 Ss. 260-269 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(m)**

261 Application for permission to continue derivative claim

(1) A member of a company who brings a derivative claim under this Chapter must apply to the court for permission (in Northern Ireland, leave) to continue it.

(2) If it appears to the court that the application and the evidence filed by the applicant in support of it do not disclose a prima facie case for giving permission (or leave), the court—

(a) must dismiss the application, and

(b) may make any consequential order it considers appropriate.

(3) If the application is not dismissed under subsection (2), the court—

(a) may give directions as to the evidence to be provided by the company, and

(b) may adjourn the proceedings to enable the evidence to be obtained.

(4) On hearing the application, the court may—

(a) give permission (or leave) to continue the claim on such terms as it thinks fit,

(b) refuse permission (or leave) and dismiss the claim, or

(c) adjourn the proceedings on the application and give such directions as it thinks fit.

Modifications etc. (not altering text)

C442 Ss. 260-269 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(m)**

C443 Ss. 260-269 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(m)**

C444 Ss. 260-269 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(m)**

C445 Ss. 260-269 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(m)**

C446 Ss. 260-269 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(m)**

262 Application for permission to continue claim as a derivative claim

(1) This section applies where—

(a) a company has brought a claim, and

(b) the cause of action on which the claim is based could be pursued as a derivative claim under this Chapter.

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(2) A member of the company may apply to the court for permission (in Northern Ireland, leave) to continue the claim as a derivative claim on the ground that—

(a) the manner in which the company commenced or continued the claim amounts to an abuse of the process of the court,

(b) the company has failed to prosecute the claim diligently, and

(c) it is appropriate for the member to continue the claim as a derivative claim.

(3) If it appears to the court that the application and the evidence filed by the applicant in support of it do not disclose a prima facie case for giving permission (or leave), the court—

(a) must dismiss the application, and

(b) may make any consequential order it considers appropriate.

(4) If the application is not dismissed under subsection (3), the court—

(a) may give directions as to the evidence to be provided by the company, and

(b) may adjourn the proceedings to enable the evidence to be obtained.

(5) On hearing the application, the court may—

(a) give permission (or leave) to continue the claim as a derivative claim on such terms as it thinks fit,

(b) refuse permission (or leave) and dismiss the application, or

(c) adjourn the proceedings on the application and give such directions as it thinks fit.

Modifications etc. (not altering text)

C442 Ss. 260-269 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(m)**

C447 Ss. 260-269 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(m)**

C448 Ss. 260-269 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(m)**

C449 Ss. 260-269 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(m)**

C450 Ss. 260-269 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(m)**

263 Whether permission to be given

(1) The following provisions have effect where a member of a company applies for permission (in Northern Ireland, leave) under section 261 or 262.

(2) Permission (or leave) must be refused if the court is satisfied—

(a) that a person acting in accordance with section 172 (duty to promote the success of the company) would not seek to continue the claim, or

(b) where the cause of action arises from an act or omission that is yet to occur, that the act or omission has been authorised by the company, or

(c) where the cause of action arises from an act or omission that has already occurred, that the act or omission—

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(i) was authorised by the company before it occurred, or

(ii) has been ratified by the company since it occurred.

(3) In considering whether to give permission (or leave) the court must take into account, in particular—

(a) whether the member is acting in good faith in seeking to continue the claim;

(b) the importance that a person acting in accordance with section 172 (duty to promote the success of the company) would attach to continuing it;

(c) where the cause of action results from an act or omission that is yet to occur, whether the act or omission could be, and in the circumstances would be likely to be—

(i) authorised by the company before it occurs, or

(ii) ratified by the company after it occurs;

(d) where the cause of action arises from an act or omission that has already occurred, whether the act or omission could be, and in the circumstances would be likely to be, ratified by the company;

(e) whether the company has decided not to pursue the claim;

(f) whether the act or omission in respect of which the claim is brought gives rise to a cause of action that the member could pursue in his own right rather than on behalf of the company.

(4) In considering whether to give permission (or leave) the court shall have particular regard to any evidence before it as to the views of members of the company who have no personal interest, direct or indirect, in the matter.

(5) The Secretary of State may by regulations—

(a) amend subsection (2) so as to alter or add to the circumstances in which permission (or leave) is to be refused;

(b) amend subsection (3) so as to alter or add to the matters that the court is required to take into account in considering whether to give permission (or leave).

(6) Before making any such regulations the Secretary of State shall consult such persons as he considers appropriate.

(7) Regulations under this section are subject to affirmative resolution procedure.

Modifications etc. (not altering text)

C442 Ss. 260-269 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(m)**

C451 Ss. 260-269 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(m)**

C452 Ss. 260-269 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(m)**

C453 Ss. 260-269 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(m)**

C454 Ss. 260-269 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(m)**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I98 S. 263 wholly in force at 1.10.2007; s. 263 not in force at Royal Assent, see s. 1300; s. 263 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 263 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(e)** (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

264 Application for permission to continue derivative claim brought by another member

(1) This section applies where a member of a company ("the claimant")—

(a) has brought a derivative claim,

(b) has continued as a derivative claim a claim brought by the company, or

(c) has continued a derivative claim under this section.

(2) Another member of the company ("the applicant") may apply to the court for permission (in Northern Ireland, leave) to continue the claim on the ground that—

(a) the manner in which the proceedings have been commenced or continued by the claimant amounts to an abuse of the process of the court,

(b) the claimant has failed to prosecute the claim diligently, and

(c) it is appropriate for the applicant to continue the claim as a derivative claim.

(3) If it appears to the court that the application and the evidence filed by the applicant in support of it do not disclose a prima facie case for giving permission (or leave), the court—

(a) must dismiss the application, and

(b) may make any consequential order it considers appropriate.

(4) If the application is not dismissed under subsection (3), the court—

(a) may give directions as to the evidence to be provided by the company, and

(b) may adjourn the proceedings to enable the evidence to be obtained.

(5) On hearing the application, the court may—

(a) give permission (or leave) to continue the claim on such terms as it thinks fit,

(b) refuse permission (or leave) and dismiss the application, or

(c) adjourn the proceedings on the application and give such directions as it thinks fit.

Modifications etc. (not altering text)

C442 Ss. 260-269 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(m)**

C455 Ss. 260-269 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(m)**

C456 Ss. 260-269 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(m)**

C457 Ss. 260-269 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(m)**

C458 Ss. 260-269 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(m)**

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CHAPTER 2

DERIVATIVE PROCEEDINGS IN SCOTLAND

265 Derivative proceedings

(1) In Scotland, a member of a company may raise proceedings in respect of an act or omission specified in subsection (3) in order to protect the interests of the company and obtain a remedy on its behalf.

(2) A member of a company may raise such proceedings only under subsection (1).

(3) The act or omission referred to in subsection (1) is any actual or proposed act or omission involving negligence, default, breach of duty or breach of trust by a director of the company.

(4) Proceedings may be raised under subsection (1) against (either or both)—

(a) the director referred to in subsection (3), or

(b) another person.

(5) It is immaterial whether the act or omission in respect of which the proceedings are to be raised or, in the case of continuing proceedings under section 267 or 269, are raised, arose before or after the person seeking to raise or continue them became a member of the company.

(6) This section does not affect—

(a) any right of a member of a company to raise proceedings in respect of an act or omission specified in subsection (3) in order to protect his own interests and obtain a remedy on his own behalf, or

(b) the court's power to make an order under section 996(2)(c) or anything done under such an order.

(7) In this Chapter—

(a) proceedings raised under subsection (1) are referred to as "derivative proceedings",

(b) the act or omission in respect of which they are raised is referred to as the "cause of action",

(c) "director" includes a former director,

(d) references to a director include a shadow director, and

(e) references to a member of a company include a person who is not a member but to whom shares in the company have been transferred or transmitted by operation of law.

Modifications etc. (not altering text)

C442 Ss. 260-269 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(m)**

C459 Ss. 260-269 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(m)**

C460 Ss. 260-269 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(m)**

C461 Ss. 260-269 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(m)**

Status: *Point in time view as at 31/12/2020.*
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C462 Ss. 260-269 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(m)**

266 Requirement for leave and notice

(1) Derivative proceedings may be raised by a member of a company only with the leave of the court.

(2) An application for leave must—

(a) specify the cause of action, and

(b) summarise the facts on which the derivative proceedings are to be based.

(3) If it appears to the court that the application and the evidence produced by the applicant in support of it do not disclose a prima facie case for granting it, the court—

(a) must refuse the application, and

(b) may make any consequential order it considers appropriate.

(4) If the application is not refused under subsection (3)—

(a) the applicant must serve the application on the company,

(b) the court—

(i) may make an order requiring evidence to be produced by the company, and

(ii) may adjourn the proceedings on the application to enable the evidence to be obtained, and

(c) the company is entitled to take part in the further proceedings on the application.

(5) On hearing the application, the court may—

(a) grant the application on such terms as it thinks fit,

(b) refuse the application, or

(c) adjourn the proceedings on the application and make such order as to further procedure as it thinks fit.

Modifications etc. (not altering text)

C442 Ss. 260-269 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(m)**

C463 Ss. 260-269 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(m)**

C464 Ss. 260-269 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(m)**

C465 Ss. 260-269 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(m)**

C466 Ss. 260-269 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(m)**

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267 Application to continue proceedings as derivative proceedings

(1) This section applies where—

(a) a company has raised proceedings, and

(b) the proceedings are in respect of an act or omission which could be the basis for derivative proceedings.

(2) A member of the company may apply to the court to be substituted for the company in the proceedings, and for the proceedings to continue in consequence as derivative proceedings, on the ground that—

(a) the manner in which the company commenced or continued the proceedings amounts to an abuse of the process of the court,

(b) the company has failed to prosecute the proceedings diligently, and

(c) it is appropriate for the member to be substituted for the company in the proceedings.

(3) If it appears to the court that the application and the evidence produced by the applicant in support of it do not disclose a prima facie case for granting it, the court—

(a) must refuse the application, and

(b) may make any consequential order it considers appropriate.

(4) If the application is not refused under subsection (3)—

(a) the applicant must serve the application on the company,

(b) the court—

(i) may make an order requiring evidence to be produced by the company, and

(ii) may adjourn the proceedings on the application to enable the evidence to be obtained, and

(c) the company is entitled to take part in the further proceedings on the application.

(5) On hearing the application, the court may—

(a) grant the application on such terms as it thinks fit,

(b) refuse the application, or

(c) adjourn the proceedings on the application and make such order as to further procedure as it thinks fit.

Modifications etc. (not altering text)

C442 Ss. 260-269 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(m)**

C467 Ss. 260-269 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(m)**

C468 Ss. 260-269 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(m)**

C469 Ss. 260-269 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(m)**

C470 Ss. 260-269 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(m)**

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268 Granting of leave

(1) The court must refuse leave to raise derivative proceedings or an application under section 267 if satisfied—

(a) that a person acting in accordance with section 172 (duty to promote the success of the company) would not seek to raise or continue the proceedings (as the case may be), or

(b) where the cause of action is an act or omission that is yet to occur, that the act or omission has been authorised by the company, or

(c) where the cause of action is an act or omission that has already occurred, that the act or omission—

(i) was authorised by the company before it occurred, or

(ii) has been ratified by the company since it occurred.

(2) In considering whether to grant leave to raise derivative proceedings or an application under section 267, the court must take into account, in particular—

(a) whether the member is acting in good faith in seeking to raise or continue the proceedings (as the case may be),

(b) the importance that a person acting in accordance with section 172 (duty to promote the success of the company) would attach to raising or continuing them (as the case may be),

(c) where the cause of action is an act or omission that is yet to occur, whether the act or omission could be, and in the circumstances would be likely to be—

(i) authorised by the company before it occurs, or

(ii) ratified by the company after it occurs,

(d) where the cause of action is an act or omission that has already occurred, whether the act or omission could be, and in the circumstances would be likely to be, ratified by the company,

(e) whether the company has decided not to raise proceedings in respect of the same cause of action or to persist in the proceedings (as the case may be),

(f) whether the cause of action is one which the member could pursue in his own right rather than on behalf of the company.

(3) In considering whether to grant leave to raise derivative proceedings or an application under section 267, the court shall have particular regard to any evidence before it as to the views of members of the company who have no personal interest, direct or indirect, in the matter.

(4) The Secretary of State may by regulations—

(a) amend subsection (1) so as to alter or add to the circumstances in which leave or an application is to be refused,

(b) amend subsection (2) so as to alter or add to the matters that the court is required to take into account in considering whether to grant leave or an application.

(5) Before making any such regulations the Secretary of State shall consult such persons as he considers appropriate.

(6) Regulations under this section are subject to affirmative resolution procedure.

Status: *Point in time view as at 31/12/2020.*
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Modifications etc. (not altering text)

C442 Ss. 260-269 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(m)**

C471 Ss. 260-269 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(m)**

C472 Ss. 260-269 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(m)**

C473 Ss. 260-269 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(m)**

C474 Ss. 260-269 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(m)**

Commencement Information

I99 S. 268 wholly in force at 1.10.2007; s. 268 not in force at Royal Assent, see s. 1300; s. 268 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 268 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(e)** (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

269 Application by member to be substituted for member pursuing derivative proceedings

(1) This section applies where a member of a company ("the claimant")—

(a) has raised derivative proceedings,

(b) has continued as derivative proceedings raised by the company, or

(c) has continued derivative proceedings under this section.

(2) Another member of the company ("the applicant") may apply to the court to be substituted for the claimant in the action on the ground that—

(a) the manner in which the proceedings have been commenced or continued by the claimant amounts to an abuse of the process of the court,

(b) the claimant has failed to prosecute the proceedings diligently, and

(c) it is appropriate for the applicant to be substituted for the claimant in the proceedings.

(3) If it appears to the court that the application and the evidence produced by the applicant in support of it do not disclose a prima facie case for granting it, the court—

(a) must refuse the application, and

(b) may make any consequential order it considers appropriate.

(4) If the application is not refused under subsection (3)—

(a) the applicant must serve the application on the company,

(b) the court—

(i) may make an order requiring evidence to be produced by the company, and

(ii) may adjourn the proceedings on the application to enable the evidence to be obtained, and

(c) the company is entitled to take part in the further proceedings on the application.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(5) On hearing the application, the court may—

(a) grant the application on such terms as it thinks fit,

(b) refuse the application, or

(c) adjourn the proceedings on the application and make such order as to further procedure as it thinks fit.

Modifications etc. (not altering text)

C442 Ss. 260-269 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(m)**

C475 Ss. 260-269 modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), art. 17(1), **Sch. para. 2(m)**

C476 Ss. 260-269 modified (8.00 a.m. on 29.9.2008) by the The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), art. 13(1)(3), **Sch. 1 para. 2(m)**

C477 Ss. 260-269 modified (9.30 a.m. on 7.10.2008) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644), art. 26, **Sch. 2 para. 2(m)**

C478 Ss. 260-269 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(m)**

PART 12

COMPANY SECRETARIES

Modifications etc. (not altering text)

C479 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

Private companies

270 Private company not required to have secretary

(1) A private company is not required to have a secretary.

(2) References in the Companies Acts to a private company "without a secretary" are to a private company that for the time being is taking advantage of the exemption in subsection (1); and references to a private company "with a secretary" shall be construed accordingly.

(3) In the case of a private company without a secretary—

(a) anything authorised or required to be given or sent to, or served on, the company by being sent to its secretary—

(i) may be given or sent to, or served on, the company itself, and

(ii) if addressed to the secretary shall be treated as addressed to the company; and

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(b) anything else required or authorised to be done by or to the secretary of the company may be done by or to—

(i) a director, or

(ii) a person authorised generally or specifically in that behalf by the directors.

Commencement Information

I100 S. 270 wholly in force at 6.4.2008; s. 270 not in force at Royal Assent see s. 1300; s. 270 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(c)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 3-5 and with transitional provisions and savings in Sch. 4 paras. 4, 5)

Public companies

271 Public company required to have secretary

A public company must have a secretary.

Commencement Information

I101 S. 271 wholly in force at 6.4.2008; s. 271 not in force at Royal Assent see s. 1300; s. 271 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(c)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 3-5 and with transitional provisions and savings in Sch. 4 paras. 4, 5)

272 Direction requiring public company to appoint secretary

(1) If it appears to the Secretary of State that a public company is in breach of section 271 (requirement to have secretary), the Secretary of State may give the company a direction under this section.

(2) The direction must state that the company appears to be in breach of that section and specify—

(a) what the company must do in order to comply with the direction, and

(b) the period within which it must do so.

That period must be not less than one month or more than three months after the date on which the direction is given.

(3) The direction must also inform the company of the consequences of failing to comply.

(4) Where the company is in breach of section 271 it must comply with the direction by—

(a) making the necessary appointment, and

(b) giving notice of it under section 276,

before the end of the period specified in the direction.

(5) If the company has already made the necessary appointment, it must comply with the direction by giving notice of it under section 276 before the end of the period specified in the direction.

(6) If a company fails to comply with a direction under this section, an offence is committed by—

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(a) the company, and
(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding **[**F97one-tenth of level 5 on the standard scale**][**F97one-tenth of the greater of £5,000 or level 4 on the standard scale**]**.

Textual Amendments

F97 Words in s. 272(7) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(9)** (with reg. 5(1))

Commencement Information

I102 S. 272 wholly in force at 6.4.2008; s. 272 not in force at Royal Assent see s. 1300; s. 272 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(c)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 3-5 and with transitional provisions and savings in Sch. 4 paras. 4, 5)

273 Qualifications of secretaries of public companies

(1) It is the duty of the directors of a public company to take all reasonable steps to secure that the secretary (or each joint secretary) of the company—
(a) is a person who appears to them to have the requisite knowledge and experience to discharge the functions of secretary of the company, and
(b) has one or more of the following qualifications.

(2) The qualifications are—
(a) that he has held the office of secretary of a public company for at least three of the five years immediately preceding his appointment as secretary;
(b) that he is a member of any of the bodies specified in subsection (3);
(c) that he is a barrister, advocate or solicitor called or admitted in any part of the United Kingdom;
(d) that he is a person who, by virtue of his holding or having held any other position or his being a member of any other body, appears to the directors to be capable of discharging the functions of secretary of the company.

(3) The bodies referred to in subsection (2)(b) are—
(a) the Institute of Chartered Accountants in England and Wales;
(b) the Institute of Chartered Accountants of Scotland;
(c) the Association of Chartered Certified Accountants;
(d) the Institute of Chartered Accountants in Ireland;
(e) the Institute of Chartered Secretaries and Administrators;
(f) the Chartered Institute of Management Accountants;
(g) the Chartered Institute of Public Finance and Accountancy.

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Commencement Information

I103 S. 273 wholly in force at 6.4.2008; s. 273 not in force at Royal Assent see s. 1300; s. 273 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(c)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 3-5 and with transitional provisions and savings in Sch. 4 paras. 4, 5)

Provisions applying to private companies with a secretary and to public companies

274 Discharge of functions where office vacant or secretary unable to act

Where in the case of any company the office of secretary is vacant, or there is for any other reason no secretary capable of acting, anything required or authorised to be done by or to the secretary may be done—

(a) by or to an assistant or deputy secretary (if any), or

(b) if there is no assistant or deputy secretary or none capable of acting, by or to any person authorised generally or specifically in that behalf by the directors.

Commencement Information

I104 S. 274 wholly in force at 6.4.2008; s. 274 not in force at Royal Assent see s. 1300; s. 274 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(c)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 3-5 and with transitional provisions and savings in Sch. 4 paras. 4, 5)

[F98 274A Alternative method of record-keeping

Sections 275 and 276 must be read with sections 279A to 279E (which allow for an alternative method of record-keeping in the case of private companies).**]**

Textual Amendments

F98 S. 274A inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 9**; S.I. 2016/321, reg. 6(c)

275 Duty to keep register of secretaries

(1) A company must keep a register of its secretaries.

(2) The register must contain the required particulars (see sections 277 to 279) of the person who is, or persons who are, the secretary or joint secretaries of the company.

(3) The register must be kept available for inspection—

(a) at the company's registered office, or

(b) at a place specified in regulations under section 1136.

(4) The company must give notice to the registrar—

(a) of the place at which the register is kept available for inspection, and

(b) of any change in that place,

unless it has at all times been kept at the company's registered office.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(5) The register must be open to the inspection—

(a) of any member of the company without charge, and

(b) of any other person on payment of such fee as may be prescribed.

(6) If default is made in complying with subsection (1), (2) or (3), or if default is made for 14 days in complying with subsection (4), or if an inspection required under subsection (5) is refused, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding **[**F99one-tenth of level 5 on the standard scale**][**F99one-tenth of the greater of £5,000 or level 4 on the standard scale**]**.

(8) In the case of a refusal of inspection of the register, the court may by order compel an immediate inspection of it.

Textual Amendments

F99 Words in s. 275(7) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(10)** (with reg. 5(1))

Modifications etc. (not altering text)

C480 S. 275: power to modify conferred (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), **ss. 39(1)**, 40(e), 49(1) (with ss. 2(2), 5(2), 39(8)(9))

C481 Ss. 275-279 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 8** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C482 S. 275 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(n)**

C483 S. 275 modified (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **11(a)(v)**

C484 S. 275(6) modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **9**

Commencement Information

I105 S. 275 wholly in force at 1.10.2009; s. 275 not in force at Royal Assent, see s. 1300; s. 275 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 275 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(j)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

276 Duty to notify registrar of changes

(1) A company must, within the period of 14 days from—

(a) a person becoming or ceasing to be its secretary or one of its joint secretaries, or

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(b) the occurrence of any change in the particulars contained in its register of secretaries,

give notice to the registrar of the change and of the date on which it occurred.

(2) Notice of a person having become secretary, or one of joint secretaries, of the company must be accompanied by a **[**F100statement by the company that the person has consented**]** to act in the relevant capacity.

(3) If default is made in complying with this section, an offence is committed by every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding **[**F101one-tenth of level 5 on the standard scale**][**F101one-tenth of the greater of £5,000 or level 4 on the standard scale**]**.

Textual Amendments

F100 Words in s. 276(2) substituted (10.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 100(5)**, 164(1) (with s. 100(6)); S.I. 2015/1689, reg. 4(b)

F101 Words in s. 276(4) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(11)** (with reg. 5(1))

Modifications etc. (not altering text)

C485 S. 276: power to modify conferred (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), **ss. 39(1)**, 40(e), 49(1) (with ss. 2(2), 5(2), 39(8)(9))

C486 Ss. 275-279 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 8** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C487 S. 276 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(o)**

C488 S. 276(1) modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **10**

277 Particulars of secretaries to be registered: individuals

(1) A company's register of secretaries must contain the following particulars in the case of an individual—

(a) name and any former name;

(b) address.

(2) For the purposes of this section "name" means a person's Christian name (or other forename) and surname, except that in the case of—

(a) a peer, or

(b) an individual usually known by a title,

the title may be stated instead of his Christian name (or other forename) and surname or in addition to either or both of them.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(3) For the purposes of this section a "former name" means a name by which the individual was formerly known for business purposes.

Where a person is or was formerly known by more than one such name, each of them must be stated.

(4) It is not necessary for the register to contain particulars of a former name in the following cases—

(a) in the case of a peer or an individual normally known by a British title, where the name is one by which the person was known previous to the adoption of or succession to the title;

(b) in the case of any person, where the former name—

(i) was changed or disused before the person attained the age of 16 years, or

(ii) has been changed or disused for 20 years or more.

(5) The address required to be stated in the register is a service address.

This may be stated to be "The company's registered office".

Modifications etc. (not altering text)

C489 Ss. 275-279 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 8** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C490 S. 277(2)-(5) applied by S.I. 2004/2326 reg. 85(7) (as substituted (1.10.2014) by The European Economic Interest Grouping and European Public Limited-Liability Company (Amendment) Regulations 2014 (S.I. 2014/2382), regs. 1, **29**)

278 Particulars of secretaries to be registered: corporate secretaries and firms

(1) A company's register of secretaries must contain the following particulars in the case of a body corporate, or a firm that is a legal person under the law by which it is governed—

(a) corporate or firm name;

(b) registered or principal office;

[[F102](c) in the case of a limited company that is a UK-registered company, the registered number;**]**

(d) in any other case, particulars of—

(i) the legal form of the company or firm and the law by which it is governed, and

(ii) if applicable, the register in which it is entered (including details of the state) and its registration number in that register.

(2) If all the partners in a firm are joint secretaries it is sufficient to state the particulars that would be required if the firm were a legal person and the firm had been appointed secretary.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F102 S. 278(1)(c) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 5** (with Sch. 4 para. 2) (as amended by S.I. 2020/523, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C491 Ss. 275-279 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 8** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C492 S. 278(2) applied by S.I. 2004/2326 reg. 85(7) (as substituted (1.10.2014) by The European Economic Interest Grouping and European Public Limited-Liability Company (Amendment) Regulations 2014 (S.I. 2014/2382), regs. 1, **29**)

279 Particulars of secretaries to be registered: power to make regulations

(1) The Secretary of State may make provision by regulations amending—

section 277 (particulars of secretaries to be registered: individuals), or

section 278 (particulars of secretaries to be registered: corporate secretaries and firms),

so as to add to or remove items from the particulars required to be contained in a company's register of secretaries.

(2) Regulations under this section are subject to affirmative resolution procedure.

Modifications etc. (not altering text)

C493 Ss. 275-279 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 8** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I106 S. 279 wholly in force at 1.10.2009; s. 279 not in force at Royal Assent, see s. 1300; s. 279 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 279 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(j)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

I[F103] Option to keep information on the central register

Textual Amendments

F103 Ss. 279A-279F and cross-heading inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 10**; S.I. 2016/321, reg. 6(c)

279A Right to make an election

(1) An election may be made under this section—

(a) by the subscribers wishing to form a private company under this Act, or

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(b) by the private company itself once it is formed and registered.

(2) The election is made by giving notice of election to the registrar.

(3) If the notice is given by subscribers wishing to form a private company, it must be given when the documents required to be delivered under section 9 are delivered to the registrar.

279B Effective date of election

(1) An election made under section 279A takes effect when the notice of election is registered by the registrar.

(2) The election remains in force until either—

(a) the company ceases to be a private company, or

(b) a notice of withdrawal sent by the company under section 279E is registered by the registrar,

whichever occurs first.

279C Effect of election on obligations under sections 275 and 276

If an election is in force under section 279A in respect of a company, the company's obligations—

(a) to keep and maintain a register of secretaries under section 275, and

(b) to notify the registrar of changes to it under section 276,

do not apply with respect to the period when the election is in force.

279D Duty to notify registrar of changes

(1) The duty under subsection (2) applies during the period when an election under section 279A is in force.

(2) The company must deliver to the registrar—

(a) any information of which the company would during that period have been obliged to give notice under section 276, had the election not been in force, and

(b) any statement that would have had to accompany such a notice.

(3) The information (and any accompanying statement) must be delivered as soon as reasonably practicable after the company becomes aware of the information and, in any event, no later than the time by which the company would have been obliged under section 276 to give notice of the information.

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

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

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

(a) in England and Wales, to a fine and, for continued contravention, a daily default fine not exceeding the greater of £500 and one-tenth of level 4 on the standard scale;

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(b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 5 on the standard scale.

279E Withdrawing the election

(1) A company may withdraw an election made by or in respect of it under section 279A.

(2) Withdrawal is achieved by giving notice of withdrawal to the registrar.

(3) The withdrawal takes effect when the notice is registered by the registrar.

(4) The effect of withdrawal is that the company's obligation under section 275 to keep and maintain a register of secretaries, and its obligation under section 276 to notify the registrar of changes to that register, apply from then on with respect to the period going forward.

(5) This means that, when the withdrawal takes effect—

(a) the company must enter in its register of secretaries all the information that is required to be contained in that register in respect of matters that are current as at that time, but

(b) the company is not required to enter in its register information relating to the period when the election was in force that is no longer current.

279F Power to extend option to public companies

(1) The Secretary of State may by regulations amend this Act—

(a) to extend sections 279A to 279E (with or without modification) to public companies or public companies of a class specified in the regulations, and

(b) to make such other amendments as the Secretary of State thinks fit in consequence of that extension.

(2) Regulations under this section are subject to affirmative resolution procedure.**]**

280 Acts done by person in dual capacity

A provision requiring or authorising a thing to be done by or to a director and the secretary of a company is not satisfied by its being done by or to the same person acting both as director and as, or in place of, the secretary.

PART 13

RESOLUTIONS AND MEETINGS

Modifications etc. (not altering text)

C494 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

CHAPTER 1

GENERAL PROVISIONS ABOUT RESOLUTIONS

281 Resolutions

(1) A resolution of the members (or of a class of members) of a private company must be passed—

(a) as a written resolution in accordance with Chapter 2, or

(b) at a meeting of the members (to which the provisions of Chapter 3 apply).

(2) A resolution of the members (or of a class of members) of a public company must be passed at a meeting of the members (to which the provisions of Chapter 3 and, where relevant, Chapter 4 apply).

(3) Where a provision of the Companies Acts—

(a) requires a resolution of a company, or of the members (or a class of members) of a company, and

(b) does not specify what kind of resolution is required,

what is required is an ordinary resolution unless the company's articles require a higher majority (or unanimity).

(4) Nothing in this Part affects any enactment or rule of law as to—

(a) things done otherwise than by passing a resolution,

(b) circumstances in which a resolution is or is not treated as having been passed, or

(c) cases in which a person is precluded from alleging that a resolution has not been duly passed.

282 Ordinary resolutions

(1) An ordinary resolution of the members (or of a class of members) of a company means a resolution that is passed by a simple majority.

(2) A written resolution is passed by a simple majority if it is passed by members representing a simple majority of the total voting rights of eligible members (see Chapter 2).

(3) A resolution passed at a meeting on a show of hands is passed by a simple majority if it is passed by **[**F104a simple majority of the votes cast by those entitled to vote**]**

(4) A resolution passed on a poll taken at a meeting is passed by a simple majority if it is passed by members representing a simple majority of the total voting rights of members who (being entitled to do so) vote **[**F105in person, by proxy or in advance (see section 322A)**]** on the resolution.

(5) Anything that may be done by ordinary resolution may also be done by special resolution.

Textual Amendments

F104 Words in s. 282(3) substituted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 2(1)** (with application as stated in reg. 1(2))

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F105 Words in s. 282(4) substituted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 5(2)** (with application as stated in reg. 1(2))

283 Special resolutions

(1) A special resolution of the members (or of a class of members) of a company means a resolution passed by a majority of not less than 75%.

(2) A written resolution is passed by a majority of not less than 75% if it is passed by members representing not less than 75% of the total voting rights of eligible members (see Chapter 2).

(3) Where a resolution of a private company is passed as a written resolution—

(a) the resolution is not a special resolution unless it stated that it was proposed as a special resolution, and

(b) if the resolution so stated, it may only be passed as a special resolution.

(4) A resolution passed at a meeting on a show of hands is passed by a majority of not less than 75% if it is passed by **[**[F106]not less than 75% of the votes cast by those entitled to vote.**]**

(5) A resolution passed on a poll taken at a meeting is passed by a majority of not less than 75% if it is passed by members representing not less than 75% of the total voting rights of the members who (being entitled to do so) vote **[**[F107]in person, by proxy or in advance (see section 322A)**]** on the resolution.

(6) Where a resolution is passed at a meeting—

(a) the resolution is not a special resolution unless the notice of the meeting included the text of the resolution and specified the intention to propose the resolution as a special resolution, and

(b) if the notice of the meeting so specified, the resolution may only be passed as a special resolution.

Textual Amendments

F106 Words in s. 283(4) substituted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 2(2)** (with application as stated in reg. 1(2))

F107 Words in s. 283(5) substituted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 5(2)** (with application as stated in reg. 1(2))

284 Votes: general rules

(1) On a vote on a written resolution—

(a) in the case of a company having a share capital, every member has one vote in respect of each share or each £10 of stock held by him, and

(b) in any other case, every member has one vote.

[[F108](2) On a vote on a resolution on a show of hands at a meeting, each member present in person has one vote.**]**

(3) On a vote on a resolution on a poll taken at a meeting—

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(a) in the case of a company having a share capital, every member has one vote in respect of each share or each £10 of stock held by him, and

(b) in any other case, every member has one vote.

(4) The provisions of this section have effect subject to any provision of the company's articles.

[F109(5) Nothing in this section is to be read as restricting the effect of—

section 152 (exercise of rights by nominees),

section 285 (voting by proxy),

section 322 (exercise of voting rights on poll),

section 322A (voting on a poll: votes cast in advance), or

section 323 (representation of corporations at meetings).**]**

Textual Amendments

F108 S. 284(2) substituted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 2(3)** (with application as stated in reg. 1(2))

F109 S. 284(5) added (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 2(4)** (with application as stated in reg. 1(2))

[F110285 Voting by proxy

(1) On a vote on a resolution on a show of hands at a meeting, every proxy present who has been duly appointed by one or more members entitled to vote on the resolution has one vote. This is subject to subsection (2).

(2) On a vote on a resolution on a show of hands at a meeting, a proxy has one vote for and one vote against the resolution if—

(a) the proxy has been duly appointed by more than one member entitled to vote on the resolution, and

(b) the proxy has been instructed by one or more of those members to vote for the resolution and by one or more other of those members to vote against it.

(3) On a poll taken at a meeting of a company all or any of the voting rights of a member may be exercised by one or more duly appointed proxies.

(4) Where a member appoints more than one proxy, subsection (3) does not authorise the exercise by the proxies taken together of more extensive voting rights than could be exercised by the member in person.

(5) Subsections (1) and (2) have effect subject to any provision of the company's articles.**]**

Textual Amendments

F110 Ss. 285, 285A substituted for s. 285 (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 3** (with application as stated in reg. 1(2))

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

[F111 285A Voting rights on poll or written resolution

In relation to a resolution required or authorised by an enactment, if a private company's articles provide that a member has a different number of votes in relation to a resolution when it is passed as a written resolution and when it is passed on a poll taken at a meeting—

(a) the provision about how many votes a member has in relation to the resolution passed on a poll is void, and

(b) a member has the same number of votes in relation to the resolution when it is passed on a poll as the member has when it is passed as a written resolution.**]**

Textual Amendments

F111 Ss. 285, 285A substituted for s. 285 (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 3** (with application as stated in reg. 1(2))

286 Votes of joint holders of shares

(1) In the case of joint holders of shares of a company, only the vote of the senior holder who votes (and any proxies duly authorised by him) may be counted by the company.

(2) For the purposes of this section, the senior holder of a share is determined by the order in which the names of the joint holders appear in the register of members **[**F112(or, if an election under section 128B is in force in respect of the company, in the register kept by the registrar under section 1080)**]**.

(3) Subsections (1) and (2) have effect subject to any provision of the company's articles.

Textual Amendments

F112 Words in s. 286(2) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 16**; S.I. 2016/321, reg. 6(c)

287 Saving for provisions of articles as to determination of entitlement to vote

Nothing in this Chapter affects—

(a) any provision of a company's articles—

(i) requiring an objection to a person's entitlement to vote on a resolution to be made in accordance with the articles, and

(ii) for the determination of any such objection to be final and conclusive, or

(b) the grounds on which such a determination may be questioned in legal proceedings.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

CHAPTER 2

WRITTEN RESOLUTIONS

General provisions about written resolutions

288 Written resolutions of private companies

(1) In the Companies Acts a "written resolution" means a resolution of a private company proposed and passed in accordance with this Chapter.

(2) The following may not be passed as a written resolution—

(a) a resolution under section 168 removing a director before the expiration of his period of office;

(b) a resolution under section 510 removing an auditor before the expiration of his term of office.

(3) A resolution may be proposed as a written resolution—

(a) by the directors of a private company (see section 291), or

(b) by the members of a private company (see sections 292 to 295).

(4) References in enactments passed or made before this Chapter comes into force to—

(a) a resolution of a company in general meeting, or

(b) a resolution of a meeting of a class of members of the company,

have effect as if they included references to a written resolution of the members, or of a class of members, of a private company (as appropriate).

(5) A written resolution of a private company has effect as if passed (as the case may be)—

(a) by the company in general meeting, or

(b) by a meeting of a class of members of the company,

and references in enactments passed or made before this section comes into force to a meeting at which a resolution is passed or to members voting in favour of a resolution shall be construed accordingly.

Commencement Information

I107 S. 288 wholly in force at 1.10.2007; s. 288 not in force at Royal Assent see s. 1300; s. 288 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

289 Eligible members

(1) In relation to a resolution proposed as a written resolution of a private company, the eligible members are the members who would have been entitled to vote on the resolution on the circulation date of the resolution (see section 290).

(2) If the persons entitled to vote on a written resolution change during the course of the day that is the circulation date of the resolution, the eligible members are the persons entitled to vote on the resolution at the time that the first copy of the resolution is sent or submitted to a member for his agreement.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I108 S. 289 wholly in force at 1.10.2007; s. 289 not in force at Royal Assent see s. 1300; s. 289 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

Circulation of written resolutions

290 Circulation date

References in this Part to the circulation date of a written resolution are to the date on which copies of it are sent or submitted to members in accordance with this Chapter (or if copies are sent or submitted to members on different days, to the first of those days).

Commencement Information

I109 S. 290 wholly in force at 1.10.2007; s. 290 not in force at Royal Assent see s. 1300; s. 290 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

291 Circulation of written resolutions proposed by directors

(1) This section applies to a resolution proposed as a written resolution by the directors of the company.

(2) The company must send or submit a copy of the resolution to every eligible member.

(3) The company must do so—

(a) by sending copies at the same time (so far as reasonably practicable) to all eligible members in hard copy form, in electronic form or by means of a website, or

(b) if it is possible to do so without undue delay, by submitting the same copy to each eligible member in turn (or different copies to each of a number of eligible members in turn),

or by sending copies to some members in accordance with paragraph (a) and submitting a copy or copies to other members in accordance with paragraph (b).

(4) The copy of the resolution must be accompanied by a statement informing the member—

(a) how to signify agreement to the resolution (see section 296), and

(b) as to the date by which the resolution must be passed if it is not to lapse (see section 297).

(5) In the event of default in complying with this section, an offence is committed by every officer of the company who is in default.

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

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

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

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(7) The validity of the resolution, if passed, is not affected by a failure to comply with this section.

Commencement Information

I110 S. 291 wholly in force at 1.10.2007; s. 291 not in force at Royal Assent see s. 1300; s. 291 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

292 Members' power to require circulation of written resolution

(1) The members of a private company may require the company to circulate a resolution that may properly be moved and is proposed to be moved as a written resolution.

(2) Any resolution may properly be moved as a written resolution unless—

(a) it would, if passed, be ineffective (whether by reason of inconsistency with any enactment or the company's constitution or otherwise),

(b) it is defamatory of any person, or

(c) it is frivolous or vexatious.

(3) Where the members require a company to circulate a resolution they may require the company to circulate with it a statement of not more than 1,000 words on the subject matter of the resolution.

(4) A company is required to circulate the resolution and any accompanying statement once it has received requests that it do so from members representing not less than the requisite percentage of the total voting rights of all members entitled to vote on the resolution.

(5) The "requisite percentage" is 5% or such lower percentage as is specified for this purpose in the company's articles.

(6) A request—

(a) may be in hard copy form or in electronic form,

(b) must identify the resolution and any accompanying statement, and

(c) must be authenticated by the person or persons making it.

Commencement Information

I111 S. 292 wholly in force at 1.10.2007; s. 292 not in force at Royal Assent see s. 1300; s. 292 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

293 Circulation of written resolution proposed by members

(1) A company that is required under section 292 to circulate a resolution must send or submit to every eligible member—

(a) a copy of the resolution, and

(b) a copy of any accompanying statement.

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This is subject to section 294(2) (deposit or tender of sum in respect of expenses of circulation) and section 295 (application not to circulate members' statement).

(2) The company must do so—

(a) by sending copies at the same time (so far as reasonably practicable) to all eligible members in hard copy form, in electronic form or by means of a website, or

(b) if it is possible to do so without undue delay, by submitting the same copy to each eligible member in turn (or different copies to each of a number of eligible members in turn),

or by sending copies to some members in accordance with paragraph (a) and submitting a copy or copies to other members in accordance with paragraph (b).

(3) The company must send or submit the copies (or, if copies are sent or submitted to members on different days, the first of those copies) not more than 21 days after it becomes subject to the requirement under section 292 to circulate the resolution.

(4) The copy of the resolution must be accompanied by guidance as to—

(a) how to signify agreement to the resolution (see section 296), and

(b) the date by which the resolution must be passed if it is not to lapse (see section 297).

(5) In the event of default in complying with this section, an offence is committed by every officer of the company who is in default.

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

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

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

(7) The validity of the resolution, if passed, is not affected by a failure to comply with this section.

Commencement Information

I112 S. 293 wholly in force at 1.10.2007; s. 293 not in force at Royal Assent see s. 1300; s. 293 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

294 Expenses of circulation

(1) The expenses of the company in complying with section 293 must be paid by the members who requested the circulation of the resolution unless the company resolves otherwise.

(2) Unless the company has previously so resolved, it is not bound to comply with that section unless there is deposited with or tendered to it a sum reasonably sufficient to meet its expenses in doing so.

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Commencement Information

I113 S. 294 wholly in force at 1.10.2007; s. 294 not in force at Royal Assent see s. 1300; s. 294 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

295 Application not to circulate members' statement

(1) A company is not required to circulate a members' statement under section 293 if, on an application by the company or another person who claims to be aggrieved, the court is satisfied that the rights conferred by section 292 and that section are being abused.

(2) The court may order the members who requested the circulation of the statement to pay the whole or part of the company's costs (in Scotland, expenses) on such an application, even if they are not parties to the application.

Commencement Information

I114 S. 295 wholly in force at 1.10.2007; s. 295 not in force at Royal Assent see s. 1300; s. 295 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

Agreeing to written resolutions

296 Procedure for signifying agreement to written resolution

(1) A member signifies his agreement to a proposed written resolution when the company receives from him (or from someone acting on his behalf) an authenticated document—

(a) identifying the resolution to which it relates, and

(b) indicating his agreement to the resolution.

(2) The document must be sent to the company in hard copy form or in electronic form.

(3) A member's agreement to a written resolution, once signified, may not be revoked.

(4) A written resolution is passed when the required majority of eligible members have signified their agreement to it.

Commencement Information

I115 S. 296 wholly in force at 1.10.2007; s. 296 not in force at Royal Assent see s. 1300; s. 296 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

297 Period for agreeing to written resolution

(1) A proposed written resolution lapses if it is not passed before the end of—

(a) the period specified for this purpose in the company's articles, or

(b) if none is specified, the period of 28 days beginning with the circulation date.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The agreement of a member to a written resolution is ineffective if signified after the expiry of that period.

Commencement Information

I116 S. 297 wholly in force at 1.10.2007; s. 297 not in force at Royal Assent see s. 1300; s. 297 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

Supplementary

298 Sending documents relating to written resolutions by electronic means

(1) Where a company has given an electronic address in any document containing or accompanying a proposed written resolution, it is deemed to have agreed that any document or information relating to that resolution may be sent by electronic means to that address (subject to any conditions or limitations specified in the document).

(2) In this section "electronic address" means any address or number used for the purposes of sending or receiving documents or information by electronic means.

Commencement Information

I117 S. 298 wholly in force at 1.10.2007; s. 298 not in force at Royal Assent see s. 1300; s. 298 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

299 Publication of written resolution on website

(1) This section applies where a company sends—

(a) a written resolution, or

(b) a statement relating to a written resolution,

to a person by means of a website.

(2) The resolution or statement is not validly sent for the purposes of this Chapter unless the resolution is available on the website throughout the period beginning with the circulation date and ending on the date on which the resolution lapses under section 297.

Commencement Information

I118 S. 299 wholly in force at 1.10.2007; s. 299 not in force at Royal Assent see s. 1300; s. 299 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

300 Relationship between this Chapter and provisions of company's articles

A provision of the articles of a private company is void in so far as it would have the effect that a resolution that is required by or otherwise provided for in an enactment could not be proposed and passed as a written resolution.

Commencement Information

I119 S. 300 wholly in force at 1.10.2007; s. 300 not in force at Royal Assent see s. 1300; s. 300 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

CHAPTER 3

RESOLUTIONS AT MEETINGS

General provisions about resolutions at meetings

301 Resolutions at general meetings

A resolution of the members of a company is validly passed at a general meeting if—

(a) notice of the meeting and of the resolution is given, and

(b) the meeting is held and conducted,

in accordance with the provisions of this Chapter (and, where relevant, Chapter 4) and the company's articles.

Commencement Information

I120 S. 301 wholly in force at 1.10.2007; s. 301 not in force at Royal Assent see s. 1300; s. 301 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

Calling meetings

302 Directors' power to call general meetings

The directors of a company may call a general meeting of the company.

Commencement Information

I121 S. 302 wholly in force at 1.10.2007; s. 302 not in force at Royal Assent see s. 1300; s. 302 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

303 Members' power to require directors to call general meeting

(1) The members of a company may require the directors to call a general meeting of the company.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The directors are required to call a general meeting once the company has received requests to do so from—

(a) members representing at least **[**F113**5%]** of such of the paid-up capital of the company as carries the right of voting at general meetings of the company (excluding any paid-up capital held as treasury shares); or

(b) in the case of a company not having a share capital, members who represent at least **[**F113**5%]** of the total voting rights of all the members having a right to vote at general meetings.

(3) F114 . . . . . .

(4) A request—

(a) must state the general nature of the business to be dealt with at the meeting, and

(b) may include the text of a resolution that may properly be moved and is intended to be moved at the meeting.

(5) A resolution may properly be moved at a meeting unless—

(a) it would, if passed, be ineffective (whether by reason of inconsistency with any enactment or the company's constitution or otherwise),

(b) it is defamatory of any person, or

(c) it is frivolous or vexatious.

(6) A request—

(a) may be in hard copy form or in electronic form, and

(b) must be authenticated by the person or persons making it.

Textual Amendments

F113 Words in s. 303(2)(a)(b) substituted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 4(2)** (with application as stated in reg. 1(2))

F114 S. 303(3) omitted (3.8.2009) by virtue of The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 4(3)** (with application as stated in reg. 1(2))

Commencement Information

I122 S. 303 wholly in force at 1.10.2007; s. 303 not in force at Royal Assent see s. 1300; s. 303 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

304 Directors' duty to call meetings required by members

(1) Directors required under section 303 to call a general meeting of the company must call a meeting—

(a) within 21 days from the date on which they become subject to the requirement, and

(b) to be held on a date not more than 28 days after the date of the notice convening the meeting.

(2) If the requests received by the company identify a resolution intended to be moved at the meeting, the notice of the meeting must include notice of the resolution.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The business that may be dealt with at the meeting includes a resolution of which notice is given in accordance with this section.

(4) If the resolution is to be proposed as a special resolution, the directors are treated as not having duly called the meeting if they do not give the required notice of the resolution in accordance with section 283.

Commencement Information

I123 S. 304 wholly in force at 1.10.2007; s. 304 not in force at Royal Assent see s. 1300; s. 304 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

305 Power of members to call meeting at company's expense

(1) If the directors—

(a) are required under section 303 to call a meeting, and

(b) do not do so in accordance with section 304,

the members who requested the meeting, or any of them representing more than one half of the total voting rights of all of them, may themselves call a general meeting.

(2) Where the requests received by the company included the text of a resolution intended to be moved at the meeting, the notice of the meeting must include notice of the resolution.

(3) The meeting must be called for a date not more than three months after the date on which the directors become subject to the requirement to call a meeting.

(4) The meeting must be called in the same manner, as nearly as possible, as that in which meetings are required to be called by directors of the company.

(5) The business which may be dealt with at the meeting includes a resolution of which notice is given in accordance with this section.

(6) Any reasonable expenses incurred by the members requesting the meeting by reason of the failure of the directors duly to call a meeting must be reimbursed by the company.

(7) Any sum so reimbursed shall be retained by the company out of any sums due or to become due from the company by way of fees or other remuneration in respect of the services of such of the directors as were in default.

Commencement Information

I124 S. 305 wholly in force at 1.10.2007; s. 305 not in force at Royal Assent see s. 1300; s. 305 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

306 Power of court to order meeting

(1) This section applies if for any reason it is impracticable—

(a) to call a meeting of a company in any manner in which meetings of that company may be called, or

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(b) to conduct the meeting in the manner prescribed by the company's articles or this Act.

(2) The court may, either of its own motion or on the application—

(a) of a director of the company, or

(b) of a member of the company who would be entitled to vote at the meeting,

order a meeting to be called, held and conducted in any manner the court thinks fit.

(3) Where such an order is made, the court may give such ancillary or consequential directions as it thinks expedient.

(4) Such directions may include a direction that one member of the company present at the meeting be deemed to constitute a quorum.

(5) A meeting called, held and conducted in accordance with an order under this section is deemed for all purposes to be a meeting of the company duly called, held and conducted.

Commencement Information

I125 S. 306 wholly in force at 1.10.2007; s. 306 not in force at Royal Assent see s. 1300; s. 306 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

Notice of meetings

307 Notice required of general meeting

[F115(A1) This section applies to—

(a) a general meeting of a company that is not a traded company; and

(b) a general meeting of a traded company that is an opted-in company (as defined by section 971(1)), where—

(i) the meeting is held to decide whether to take any action that might result in the frustration of a takeover bid for the company; or

(ii) the meeting is held by virtue of section 969 (power of offeror to require general meeting to be held).

(A2) For corresponding provision(s) in relation to general meetings of traded companies (other than meetings within subsection (A1)(b)), see section 307A.**]**

(1) A general meeting of a private company (other than an adjourned meeting) must be called by notice of at least 14 days.

(2) A general meeting of a public company (other than an adjourned meeting) must be called by notice of—

(a) in the case of an annual general meeting, at least 21 days, and

(b) in any other case, at least 14 days.

(3) The company's articles may require a longer period of notice than that specified in subsection (1) or (2).

(4) A general meeting may be called by shorter notice than that otherwise required if shorter notice is agreed by the members.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(5) The shorter notice must be agreed to by a majority in number of the members having a right to attend and vote at the meeting, being a majority who—

(a) together hold not less than the requisite percentage in nominal value of the shares giving a right to attend and vote at the meeting (excluding any shares in the company held as treasury shares), or

(b) in the case of a company not having a share capital, together represent not less than the requisite percentage of the total voting rights at that meeting of all the members.

(6) The requisite percentage is—

(a) in the case of a private company, 90% or such higher percentage (not exceeding 95%) as may be specified in the company's articles;

(b) in the case of a public company, 95%.

(7) Subsections (5) and (6) do not apply to an annual general meeting of a public company (see instead section 337(2)).

Textual Amendments

F115 S. 307(A1)(A2) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 9(1)** (with application as stated in reg. 1(2))

Commencement Information

I126 S. 307 wholly in force at 1.10.2007; s. 307 not in force at Royal Assent see s. 1300; s. 307 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

[F116 307A Notice required of general meeting: certain meetings of traded companies

(1) A general meeting of a traded company must be called by notice of—

(a) in a case where conditions A to C (set out below) are met, at least 14 days;

(b) in any other case, at least 21 days.

(2) Condition A is that the general meeting is not an annual general meeting.

(3) Condition B is that the company offers the facility for members to vote by electronic means accessible to all members who hold shares that carry rights to vote at general meetings. This condition is met if there is a facility, offered by the company and accessible to all such members, to appoint a proxy by means of a website.

(4) Condition C is that a special resolution reducing the period of notice to not less than 14 days has been passed—

(a) at the immediately preceding annual general meeting, or

(b) at a general meeting held since that annual general meeting.

(5) In the case of a company which has not yet held an annual general meeting, condition C is that a special resolution reducing the period of notice to not less than 14 days has been passed at a general meeting.

(6) The company's articles may require a longer period of notice than that specified in subsection (1).

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(7) Where a general meeting is adjourned, the adjourned meeting may be called by shorter notice than required by subsection (1). But in the case of an adjournment for lack of a quorum this subsection applies only if—

(a) no business is to be dealt with at the adjourned meeting the general nature of which was not stated in the notice of the original meeting, and

(b) the adjourned meeting is to be held at least 10 days after the original meeting.

(8) Nothing in this section applies in relation to a general meeting of a kind mentioned in section 307(A1)(b) (certain meetings regarding takeover of opted-in company).**]**

Textual Amendments

F116 S. 307A inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **regs. 9(2)**, 23 (with application as stated in reg. 1(2))

308 Manner in which notice to be given

Notice of a general meeting of a company must be given—

(a) in hard copy form,

(b) in electronic form, or

(c) by means of a website (see section 309),

or partly by one such means and partly by another.

Commencement Information

I127 S. 308 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(a)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

309 Publication of notice of meeting on website

(1) Notice of a meeting is not validly given by a company by means of a website unless it is given in accordance with this section.

(2) When the company notifies a member of the presence of the notice on the website the notification must—

(a) state that it concerns a notice of a company meeting,

(b) specify the place, date and time of the meeting, and

(c) in the case of a public company, state whether the meeting will be an annual general meeting.

(3) The notice must be available on the website throughout the period beginning with the date of that notification and ending with the conclusion of the meeting.

Commencement Information

I128 S. 309 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(a)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

310 Persons entitled to receive notice of meetings

(1) Notice of a general meeting of a company must be sent to—

(a) every member of the company, and

(b) every director.

(2) In subsection (1), the reference to members includes any person who is entitled to a share in consequence of the death or bankruptcy of a member, if the company has been notified of their entitlement.

(3) In subsection (2), the reference to the bankruptcy of a member includes—

(a) the sequestration of the estate of a member;

(b) a member's estate being the subject of a protected trust deed (within the meaning of the Bankruptcy (Scotland) Act **[**F117 2016**]**).

(4) This section has effect subject to—

(a) any enactment, and

(b) any provision of the company's articles.

Textual Amendments

F117 Word in s. 310(3)(b) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 29(5)**

Commencement Information

I129 S. 310 wholly in force at 1.10.2007; s. 310 not in force at Royal Assent see s. 1300; s. 310 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

311 Contents of notices of meetings

(1) Notice of a general meeting of a company must state—

(a) the time and date of the meeting, and

(b) the place of the meeting.

(2) Notice of a general meeting of a company must state the general nature of the business to be dealt with at the meeting.

[F118 In relation to a company other than a traded company, this subsection has effect subject to any provision of the company's articles.**]**

[F119 (3) Notice of a general meeting of a traded company must also include—

(a) a statement giving the address of the website on which the information required by section 311A (traded companies: publication of information in advance of general meeting) is published;

(b) a statement—

(i) that the right to vote at the meeting is determined by reference to the register of members**[**F120 (or, if an election under section 128B is in force in respect of the company, by reference to the register kept by the registrar under section 1080)**]**, and

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(ii) of the time when that right will be determined in accordance with section 360B(2) (traded companies: share dealings before general meetings);

(c) a statement of the procedures with which members must comply in order to be able to attend and vote at the meeting (including the date by which they must comply);

(d) a statement giving details of any forms to be used for the appointment of a proxy;

(e) where the company offers the facility for members to vote in advance (see section 322A) or by electronic means (see section 360A), a statement of the procedure for doing so (including the date by which it must be done, and details of any forms to be used); and

(f) a statement of the right of members to ask questions in accordance with section 319A (traded companies: questions at meetings).**]**

Textual Amendments

F118 Words in s. 311(2) substituted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 10(2)** (with application as stated in reg. 1(2))

F119 S. 311(3) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 10(3)** (with application as stated in reg. 1(2))

F120 Words in s. 311(3)(b)(i) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 17**; S.I. 2016/321, reg. 6(c)

Commencement Information

I130 S. 311 wholly in force at 1.10.2007; s. 311 not in force at Royal Assent see s. 1300; s. 311 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

[F121311A Traded companies: publication of information in advance of general meeting

(1) A traded company must ensure that the following information relating to a general meeting of the company is made available on a website—

(a) the matters set out in the notice of the meeting;

(b) the total numbers of—

(i) shares in the company, and

(ii) shares of each class,

in respect of which members are entitled to exercise voting rights at the meeting;

(c) the totals of the voting rights that members are entitled to exercise at the meeting in respect of the shares of each class;

(d) members' statements, members' resolutions and members' matters of business received by the company after the first date on which notice of the meeting is given.

(2) The information must be made available on a website that—

(a) is maintained by or on behalf of the company, and

(b) identifies the company.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Access to the information on the website, and the ability to obtain a hard copy of the information from the website, must not be conditional on payment of a fee or otherwise restricted.

(4) The information—

(a) must be made available—

(i) in the case of information required by subsection (1)(a) to (c), on or before the first date on which notice of the meeting is given, and

(ii) in the case of information required by subsection (1)(d), as soon as reasonably practicable, and

(b) must be kept available throughout the period of two years beginning with the date on which it is first made available on a website in accordance with this section.

(5) A failure to make information available throughout the period specified in subsection (4)(b) is disregarded if—

(a) the information is made available on the website for part of that period, and

(b) the failure is wholly attributable to circumstances that it would not be reasonable to have expected the company to prevent or avoid.

(6) The amounts mentioned in subsection (1)(b) and (c) must be ascertained at the latest practicable time before the first date on which notice of the meeting is given.

(7) Failure to comply with this section does not affect the validity of the meeting or of anything done at the meeting.

(8) If this section is not complied with as respects any meeting, an offence is committed by every officer of the company who is in default.

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

Textual Amendments

F121 S. 311A inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 11** (with application as stated in reg. 1(2))

312 Resolution requiring special notice

(1) Where by any provision of the Companies Acts special notice is required of a resolution, the resolution is not effective unless notice of the intention to move it has been given to the company at least 28 days before the meeting at which it is moved.

(2) The company must, where practicable, give its members notice of any such resolution in the same manner and at the same time as it gives notice of the meeting.

(3) Where that is not practicable, the company must give its members notice at least 14 days before the meeting—

(a) by advertisement in a newspaper having an appropriate circulation, or

(b) in any other manner allowed by the company's articles.

(4) If, after notice of the intention to move such a resolution has been given to the company, a meeting is called for a date 28 days or less after the notice has been given,

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the notice is deemed to have been properly given, though not given within the time required.

Commencement Information

I131 S. 312 wholly in force at 1.10.2007; s. 312 not in force at Royal Assent see s. 1300; s. 312 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

313 Accidental failure to give notice of resolution or meeting

(1) Where a company gives notice of—

(a) a general meeting, or

(b) a resolution intended to be moved at a general meeting,

any accidental failure to give notice to one or more persons shall be disregarded for the purpose of determining whether notice of the meeting or resolution (as the case may be) is duly given.

(2) Except in relation to notice given under—

(a) section 304 (notice of meetings required by members),

(b) section 305 (notice of meetings called by members), or

(c) section 339 (notice of resolutions at AGMs proposed by members),

subsection (1) has effect subject to any provision of the company's articles.

Commencement Information

I132 S. 313 wholly in force at 1.10.2007; s. 313 not in force at Royal Assent see s. 1300; s. 313 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

Members' statements

314 Members' power to require circulation of statements

(1) The members of a company may require the company to circulate, to members of the company entitled to receive notice of a general meeting, a statement of not more than 1,000 words with respect to—

(a) a matter referred to in a proposed resolution to be dealt with at that meeting, or

(b) other business to be dealt with at that meeting.

(2) A company is required to circulate a statement once it has received requests to do so from—

(a) members representing at least 5% of the total voting rights of all the members who have a relevant right to vote (excluding any voting rights attached to any shares in the company held as treasury shares), or

(b) at least 100 members who have a relevant right to vote and hold shares in the company on which there has been paid up an average sum, per member, of at least £100.

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See also section 153 (exercise of rights where shares held on behalf of others).

(3) In subsection (2), a "relevant right to vote" means—

(a) in relation to a statement with respect to a matter referred to in a proposed resolution, a right to vote on that resolution at the meeting to which the requests relate, and

(b) in relation to any other statement, a right to vote at the meeting to which the requests relate.

(4) A request—

(a) may be in hard copy form or in electronic form,

(b) must identify the statement to be circulated,

(c) must be authenticated by the person or persons making it, and

(d) must be received by the company at least one week before the meeting to which it relates.

Commencement Information

I133 S. 314 wholly in force at 1.10.2007; s. 314 not in force at Royal Assent see s. 1300; s. 314 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

315 Company's duty to circulate members' statement

(1) A company that is required under section 314, to circulate a statement must send a copy of it to each member of the company entitled to receive notice of the meeting—

(a) in the same manner as the notice of the meeting, and

(b) at the same time as, or as soon as reasonably practicable after, it gives notice of the meeting.

(2) Subsection (1) has effect subject to section 316(2) (deposit or tender of sum in respect of expenses of circulation) and section 317 (application not to circulate members' statement).

(3) In the event of default in complying with this section, an offence is committed by every officer of the company who is in default.

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

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

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

Commencement Information

I134 S. 315 wholly in force at 1.10.2007; s. 315 not in force at Royal Assent see s. 1300; s. 315 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

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316 Expenses of circulating members' statement

(1) The expenses of the company in complying with section 315 need not be paid by the members who requested the circulation of the statement if—

(a) the meeting to which the requests relate is an annual general meeting of a public company, and

(b) requests sufficient to require the company to circulate the statement are received before the end of the financial year preceding the meeting.

(2) Otherwise—

(a) the expenses of the company in complying with that section must be paid by the members who requested the circulation of the statement unless the company resolves otherwise, and

(b) unless the company has previously so resolved, it is not bound to comply with that section unless there is deposited with or tendered to it, not later than one week before the meeting, a sum reasonably sufficient to meet its expenses in doing so.

Commencement Information

I135 S. 316 wholly in force at 1.10.2007; s. 316 not in force at Royal Assent see s. 1300; s. 316 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

317 Application not to circulate members' statement

(1) A company is not required to circulate a members' statement under section 315 if, on an application by the company or another person who claims to be aggrieved, the court is satisfied that the rights conferred by section 314 and that section are being abused.

(2) The court may order the members who requested the circulation of the statement to pay the whole or part of the company's costs (in Scotland, expenses) on such an application, even if they are not parties to the application.

Commencement Information

I136 S. 317 wholly in force at 1.10.2007; s. 317 not in force at Royal Assent see s. 1300; s. 317 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

Procedure at meetings

318 Quorum at meetings

(1) In the case of a company limited by shares or guarantee and having only one member, one qualifying person present at a meeting is a quorum.

(2) In any other case, subject to the provisions of the company's articles, two qualifying persons present at a meeting are a quorum, unless—

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(a) each is a qualifying person only because he is authorised under section 323 to act as the representative of a corporation in relation to the meeting, and they are representatives of the same corporation; or

(b) each is a qualifying person only because he is appointed as proxy of a member in relation to the meeting, and they are proxies of the same member.

(3) For the purposes of this section a "qualifying person" means—

(a) an individual who is a member of the company,

(b) a person authorised under section 323 (representation of corporations at meetings) to act as the representative of a corporation in relation to the meeting, or

(c) a person appointed as proxy of a member in relation to the meeting.

Commencement Information

I137 S. 318 wholly in force at 1.10.2007; s. 318 not in force at Royal Assent see s. 1300; s. 318 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

319 Chairman of meeting

(1) A member may be elected to be the chairman of a general meeting by a resolution of the company passed at the meeting.

(2) Subsection (1) is subject to any provision of the company's articles that states who may or may not be chairman.

Commencement Information

I138 S. 319 wholly in force at 1.10.2007; s. 319 not in force at Royal Assent see s. 1300; s. 319 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

[F122 319A Traded companies: questions at meetings

(1) At a general meeting of a traded company, the company must cause to be answered any question relating to the business being dealt with at the meeting put by a member attending the meeting.

(2) No such answer need be given—

(a) if to do so would—

(i) interfere unduly with the preparation for the meeting, or

(ii) involve the disclosure of confidential information;

(b) if the answer has already been given on a website in the form of an answer to a question; or

(c) if it is undesirable in the interests of the company or the good order of the meeting that the question be answered.]

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Textual Amendments

F122 S. 319A inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 12(1)** (with application as stated in reg. 1(2))

320 Declaration by chairman on a show of hands

(1) On a vote on a resolution at a meeting on a show of hands, a declaration by the chairman that the resolution—

(a) has or has not been passed, or

(b) passed with a particular majority,

is conclusive evidence of that fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(2) An entry in respect of such a declaration in minutes of the meeting recorded in accordance with section 355 is also conclusive evidence of that fact without such proof.

(3) This section does not have effect if a poll is demanded in respect of the resolution (and the demand is not subsequently withdrawn).

Commencement Information

I139 S. 320 wholly in force at 1.10.2007; s. 320 not in force at Royal Assent see s. 1300; s. 320 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

321 Right to demand a poll

(1) A provision of a company's articles is void in so far as it would have the effect of excluding the right to demand a poll at a general meeting on any question other than—

(a) the election of the chairman of the meeting, or

(b) the adjournment of the meeting.

(2) A provision of a company's articles is void in so far as it would have the effect of making ineffective a demand for a poll on any such question which is made—

(a) by not less than 5 members having the right to vote on the resolution; or

(b) by a member or members representing not less than 10% of the total voting rights of all the members having the right to vote on the resolution (excluding any voting rights attached to any shares in the company held as treasury shares); or

(c) by a member or members holding shares in the company conferring a right to vote on the resolution, being shares on which an aggregate sum has been paid up equal to not less than 10% of the total sum paid up on all the shares conferring that right (excluding shares in the company conferring a right to vote on the resolution which are held as treasury shares).

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Commencement Information

I140 S. 321 wholly in force at 1.10.2007; s. 321 not in force at Royal Assent see s. 1300; s. 321 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

322 Voting on a poll

On a poll taken at a general meeting of a company, a member entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.

Commencement Information

I141 S. 322 wholly in force at 1.10.2007; s. 322 not in force at Royal Assent see s. 1300; s. 322 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

[F123 322A Voting on a poll: votes cast in advance

(1) A company's articles may contain provision to the effect that on a vote on a resolution on a poll taken at a meeting, the votes may include votes cast in advance.

(2) In the case of a traded company any such provision in relation to voting at a general meeting may be made subject only to such requirements and restrictions as are—

(a) necessary to ensure the identification of the person voting, and

(b) proportionate to the achievement of that objective.

Nothing in this subsection affects any power of a company to require reasonable evidence of the entitlement of any person who is not a member to vote.

(3) Any provision of a company's articles is void in so far as it would have the effect of requiring any document casting a vote in advance to be received by the company or another person earlier than the following time—

(a) in the case of a poll taken more than 48 hours after it was demanded, 24 hours before the time appointed for the taking of the poll;

(b) in the case of any other poll, 48 hours before the time for holding the meeting or adjourned meeting.

(4) In calculating the periods mentioned in subsection (3), no account is to be taken of any part of a day that is not a working day.**]**

Textual Amendments

F123 S. 322A inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 5(1)** (with application as stated in reg. 1(2))

323 Representation of corporations at meetings

(1) If a corporation (whether or not a company within the meaning of this Act) is a member of a company, it may by resolution of its directors or other governing body authorise

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a person or persons to act as its representative or representatives at any meeting of the company.

[F124(2) A person authorised by a corporation is entitled to exercise (on behalf of the corporation) the same powers as the corporation could exercise if it were an individual member of the company. Where a corporation authorises more than one person, this subsection is subject to subsections (3) and (4).

(3) On a vote on a resolution on a show of hands at a meeting of the company, each authorised person has the same voting rights as the corporation would be entitled to.

(4) Where subsection (3) does not apply and more than one authorised person purport to exercise a power under subsection (2) in respect of the same shares—

(a) if they purport to exercise the power in the same way as each other, the power is treated as exercised in that way;

(b) if they do not purport to exercise the power in the same way as each other, the power is treated as not exercised.**]**

Textual Amendments

F124 S. 323(2)-(4) substituted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 6** (with application as stated in reg. 1(2))

Modifications etc. (not altering text)

C495 S. 323 amendment to earlier affecting provision S.I. 2009/1804, reg. 45(2) (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 2(4)**

C496 S. 323 applied (with modifications) (15.12.2007) by The Companies (Cross-Border Mergers) Regulations 2007 (S.I. 2007/2974), **reg. 11(3)**

C497 S. 323 applied (with effect as mentioned in rule 3 of the amending S.I.) (30.11.2007) by The PPP Administration Order Rules 2007 (S.I. 2007/3141), **rule 88(1)**

C498 S. 323 applied (1.11.2009) by The Water Industry (Special Administration) Rules 2009 (S.I. 2009/2477), **rule 67** (with rules 3(2), 4)

C499 S. 323 modified (7.6.2013) by The Energy Supply Company Administration (Scotland) Rules 2013 (S.I. 2013/1047), rules 1, **20(3)** (with rule 3)

Commencement Information

I142 S. 323 wholly in force at 1.10.2007; s. 323 not in force at Royal Assent see s. 1300; s. 323 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

Proxies

324 Rights to appoint proxies

(1) A member of a company is entitled to appoint another person as his proxy to exercise all or any of his rights to attend and to speak and vote at a meeting of the company.

(2) In the case of a company having a share capital, a member may appoint more than one proxy in relation to a meeting, provided that each proxy is appointed to exercise the rights attached to a different share or shares held by him, or (as the case may be) to a different £10, or multiple of £10, of stock held by him.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I143 S. 324 wholly in force at 1.10.2007; s. 324 not in force at Royal Assent see s. 1300; s. 324 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

[F125 324A Obligation of proxy to vote in accordance with instructions

A proxy must vote in accordance with any instructions given by the member by whom the proxy is appointed.]

Textual Amendments

F125 S. 324A inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 7** (with application as stated in reg. 1(2))

325 Notice of meeting to contain statement of rights

(1) In every notice calling a meeting of a company there must appear, with reasonable prominence, a statement informing the member of—

(a) his rights under section 324, and

(b) any more extensive rights conferred by the company's articles to appoint more than one proxy.

(2) Failure to comply with this section does not affect the validity of the meeting or of anything done at the meeting.

(3) If this section is not complied with as respects any meeting, an offence is committed by every officer of the company who is in default.

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

Commencement Information

I144 S. 325 wholly in force at 1.10.2007; s. 325 not in force at Royal Assent see s. 1300; s. 325 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

326 Company-sponsored invitations to appoint proxies

(1) If for the purposes of a meeting there are issued at the company's expense invitations to members to appoint as proxy a specified person or a number of specified persons, the invitations must be issued to all members entitled to vote at the meeting.

(2) Subsection (1) is not contravened if—

(a) there is issued to a member at his request a form of appointment naming the proxy or a list of persons willing to act as proxy, and

(b) the form or list is available on request to all members entitled to vote at the meeting.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(3) If subsection (1) is contravened as respects a meeting, an offence is committed by every officer of the company who is in default.

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

Commencement Information

I145 S. 326 wholly in force at 1.10.2007; s. 326 not in force at Royal Assent see s. 1300; s. 326 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

327 Notice required of appointment of proxy etc

[F126(A1) In the case of a traded company —

(a) the appointment of a person as proxy for a member must be notified to the company in writing;

(b) where such an appointment is made, the company may require reasonable evidence of—

(i) the identity of the member and of the proxy,

(ii) the member's instructions (if any) as to how the proxy is to vote, and

(iii) where the proxy is appointed by a person acting on behalf of the member, authority of that person to make the appointment;

but may not require to be provided with anything else relating to the appointment. **]**

(1) **[**F127The following provisions apply in the case of traded companies and other companies as regards**]**—

(a) the appointment of a proxy, and

(b) any document necessary to show the validity of, or otherwise relating to, the appointment of a proxy.

(2) Any provision of the company's articles is void in so far as it would have the effect of requiring any such appointment or document to be received by the company or another person earlier than the following time—

(a) in the case of a meeting or adjourned meeting, 48 hours before the time for holding the meeting or adjourned meeting;

(b) in the case of a poll taken more than 48 hours after it was demanded, 24 hours before the time appointed for the taking of the poll;

F128(c) . . . . . .

(3) In calculating the periods mentioned in subsection (2) no account shall be taken of any part of a day that is not a working day.

Textual Amendments

F126 S. 327(A1) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 13(1)** (with application as stated in reg. 1(2))

F127 Words in s. 327(1) substituted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 13(2)** (with application as stated in reg. 1(2))

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F128 S. 327(2)(c) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(n), **Sch. 6 para. 29**

Commencement Information

I146 S. 327 partly in force; s. 327 not in force at Royal Assent see s. 1300; s. 327(1)(2)(a)(b)(3) in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

328 Chairing meetings

(1) A proxy may be elected to be the chairman of a general meeting by a resolution of the company passed at the meeting.

(2) Subsection (1) is subject to any provision of the company's articles that states who may or who may not be chairman.

Commencement Information

I147 S. 328 wholly in force at 1.10.2007; s. 328 not in force at Royal Assent see s. 1300; s. 328 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

329 Right of proxy to demand a poll

(1) The appointment of a proxy to vote on a matter at a meeting of a company authorises the proxy to demand, or join in demanding, a poll on that matter.

(2) In applying the provisions of section 321(2) (requirements for effective demand), a demand by a proxy counts—

(a) for the purposes of paragraph (a), as a demand by the member;

(b) for the purposes of paragraph (b), as a demand by a member representing the voting rights that the proxy is authorised to exercise;

(c) for the purposes of paragraph (c), as a demand by a member holding the shares to which those rights are attached.

Commencement Information

I148 S. 329 wholly in force at 1.10.2007; s. 329 not in force at Royal Assent see s. 1300; s. 329 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

330 Notice required of termination of proxy's authority

[[F129](A1) In the case of a traded company the termination of the authority of a person to act as proxy must be notified to the company in writing.**]**

(1) **[**[F130]The following provisions apply in the case of traded companies and other companies as regards**]** notice that the authority of a person to act as proxy is terminated ("notice of termination").

(2) The termination of the authority of a person to act as proxy does not affect—

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(a) whether he counts in deciding whether there is a quorum at a meeting,

(b) the validity of anything he does as chairman of a meeting, or

(c) the validity of a poll demanded by him at a meeting,

unless the company receives notice of the termination before the commencement of the meeting.

(3) The termination of the authority of a person to act as proxy does not affect the validity of a vote given by that person unless the company receives notice of the termination—

(a) before the commencement of the meeting or adjourned meeting at which the vote is given, or

(b) in the case of a poll taken more than 48 hours after it is demanded, before the time appointed for taking the poll.

(4) If the company's articles require or permit members to give notice of termination to a person other than the company, the references above to the company receiving notice have effect as if they were or (as the case may be) included a reference to that person.

(5) Subsections (2) and (3) have effect subject to any provision of the company's articles which has the effect of requiring notice of termination to be received by the company or another person at a time earlier than that specified in those subsections.

This is subject to subsection (6).

(6) Any provision of the company's articles is void in so far as it would have the effect of requiring notice of termination to be received by the company or another person earlier than the following time—

(a) in the case of a meeting or adjourned meeting, 48 hours before the time for holding the meeting or adjourned meeting;

(b) in the case of a poll taken more than 48 hours after it was demanded, 24 hours before the time appointed for the taking of the poll;

F131(c) . . . . . .

(7) In calculating the periods mentioned in subsections (3)(b) and (6) no account shall be taken of any part of a day that is not a working day.

Textual Amendments

F129 S. 330(A1) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 13(3)(a)** (with application as stated in reg. 1(2))

F130 Words in s. 330(1) substituted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 13(3)(b)** (with application as stated in reg. 1(2))

F131 S. 330(6)(c) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(n), **Sch. 6 para. 30**

Commencement Information

I149 S. 330 partly in force; s. 330 not in force at Royal Assent see s. 1300; s. 330(1)-(5)(6)(a)(b)(7) in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

331 Saving for more extensive rights conferred by articles

Nothing in sections 324 to 330 (proxies) prevents a company's articles from conferring more extensive rights on members or proxies than are conferred by those sections.

Commencement Information

I150 S. 331 wholly in force at 1.10.2007; s. 331 not in force at Royal Assent see s. 1300; s. 331 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

Adjourned meetings

332 Resolution passed at adjourned meeting

Where a resolution is passed at an adjourned meeting of a company, the resolution is for all purposes to be treated as having been passed on the date on which it was in fact passed, and is not to be deemed passed on any earlier date.

Commencement Information

I151 S. 332 wholly in force at 1.10.2007; s. 332 not in force at Royal Assent see s. 1300; s. 332 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

Electronic communications

333 Sending documents relating to meetings etc in electronic form

(1) Where a company has given an electronic address in a notice calling a meeting, it is deemed to have agreed that any document or information relating to proceedings at the meeting may be sent by electronic means to that address (subject to any conditions or limitations specified in the notice).

(2) Where a company has given an electronic address—

(a) in an instrument of proxy sent out by the company in relation to the meeting, or

(b) in an invitation to appoint a proxy issued by the company in relation to the meeting,

it is deemed to have agreed that any document or information relating to proxies for that meeting may be sent by electronic means to that address (subject to any conditions or limitations specified in the notice).

(3) In subsection (2), documents relating to proxies include—

(a) the appointment of a proxy in relation to a meeting,

(b) any document necessary to show the validity of, or otherwise relating to, the appointment of a proxy, and

(c) notice of the termination of the authority of a proxy.

(4) In this section "electronic address" means any address or number used for the purposes of sending or receiving documents or information by electronic means.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I152 S. 333 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(b)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

[F132 333A Traded company: duty to provide electronic address for receipt of proxies etc

(1) A traded company must provide an electronic address for the receipt of any document or information relating to proxies for a general meeting.

(2) The company must provide the address either—

(a) by giving it when sending out an instrument of proxy for the purposes of the meeting or issuing an invitation to appoint a proxy for those purposes; or

(b) by ensuring that it is made available, throughout the period beginning with the first date on which notice of the meeting is given and ending with the conclusion of the meeting, on the website on which the information required by section 311A(1) is made available.

(3) The company is deemed to have agreed that any document or information relating to proxies for the meeting may be sent by electronic means to the address provided (subject to any limitations specified by the company when providing the address).

(4) In this section—

(a) documents relating to proxies include—

(i) the appointment of a proxy for a meeting,

(ii) any document necessary to show the validity of, or otherwise relating to, the appointment of a proxy, and

(iii) notice of the termination of the authority of a proxy;

(b) " electronic address " has the meaning given by section 333(4). **]**

Textual Amendments

F132 S. 333A inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 13(4)** (with application as stated in reg. 1(2))

Application to class meetings

334 Application to class meetings

(1) The provisions of this Chapter apply (with necessary modifications) in relation to a meeting of holders of a class of shares as they apply in relation to a general meeting.

This is subject to subsections **[**F133(2) to (3)**]**.

(2) The following provisions of this Chapter do not apply in relation to a meeting of holders of a class of shares—

(a) sections 303 to 305 (members' power to require directors to call general meeting), F134. . .

(b) section 306 (power of court to order meeting)**[**F135, and

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(c) sections 311(3), 311A, 319A, 327(A1), 330(A1) and 333A (additional requirements relating to traded companies).**]**

[F136(2A) Section 307(1) to (6) apply in relation to a meeting of holders of a class of shares in a traded company as they apply in relation to a meeting of holders of a class of shares in a company other than a traded company (and, accordingly, section 307A does not apply in relation to such a meeting).**]**

(3) The following provisions (in addition to those mentioned in subsection (2)) do not apply in relation to a meeting in connection with the variation of rights attached to a class of shares (a "variation of class rights meeting")—

(a) section 318 (quorum), and

(b) section 321 (right to demand a poll).

(4) The quorum for a variation of class rights meeting is—

(a) for a meeting other than an adjourned meeting, two persons present holding at least one-third in nominal value of the issued shares of the class in question (excluding any shares of that class held as treasury shares);

(b) for an adjourned meeting, one person present holding shares of the class in question.

(5) For the purposes of subsection (4), where a person is present by proxy or proxies, he is treated as holding only the shares in respect of which those proxies are authorised to exercise voting rights.

(6) At a variation of class rights meeting, any holder of shares of the class in question present may demand a poll.

(7) For the purposes of this section—

(a) any amendment of a provision contained in a company's articles for the variation of the rights attached to a class of shares, or the insertion of any such provision into the articles, is itself to be treated as a variation of those rights, and

(b) references to the variation of rights attached to a class of shares include references to their abrogation.

Textual Amendments

F133 Words in s. 334(1) substituted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 14(2)** (with application as stated in reg. 1(2))

F134 Word in s. 334(2)(a) omitted (3.8.2009) by virtue of The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 14(3)(a)** (with application as stated in reg. 1(2))

F135 S. 334(2)(c) and preceding word inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 14(3)(b)** (with application as stated in reg. 1(2))

F136 S. 334(2A) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 14(4)** (with application as stated in reg. 1(2))

Commencement Information

I153 S. 334 wholly in force at 1.10.2007; s. 334 not in force at Royal Assent see s. 1300; s. 334 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

335 Application to class meetings: companies without a share capital

(1) The provisions of this Chapter apply (with necessary modifications) in relation to a meeting of a class of members of a company without a share capital as they apply in relation to a general meeting.

This is subject to subsections (2) and (3).

(2) The following provisions of this Chapter do not apply in relation to a meeting of a class of members—

(a) sections 303 to 305 (members' power to require directors to call general meeting), and

(b) section 306 (power of court to order meeting).

(3) The following provisions (in addition to those mentioned in subsection (2)) do not apply in relation to a meeting in connection with the variation of the rights of a class of members (a "variation of class rights meeting")—

(a) section 318 (quorum), and

(b) section 321 (right to demand a poll).

(4) The quorum for a variation of class rights meeting is—

(a) for a meeting other than an adjourned meeting, two members of the class present (in person or by proxy) who together represent at least one-third of the voting rights of the class;

(b) for an adjourned meeting, one member of the class present (in person or by proxy).

(5) At a variation of class rights meeting, any member present (in person or by proxy) may demand a poll.

(6) For the purposes of this section—

(a) any amendment of a provision contained in a company's articles for the variation of the rights of a class of members, or the insertion of any such provision into the articles, is itself to be treated as a variation of those rights, and

(b) references to the variation of rights of a class of members include references to their abrogation.

Commencement Information

I154 S. 335 wholly in force at 1.10.2007; s. 335 not in force at Royal Assent see s. 1300; s. 335 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

Status: *Point in time view as at 31/12/2020.*
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CHAPTER 4

PUBLIC COMPANIES [F137 AND TRADED COMPANIES]: ADDITIONAL REQUIREMENTS FOR AGMS

Textual Amendments

F137 Words in Pt. 13 Ch. 4 heading inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 15(5)** (with application as stated in reg. 1(2))

336 Public companies [F138 and traded companies]: annual general meeting

(1) Every public company must hold a general meeting as its annual general meeting in each period of 6 months beginning with the day following its accounting reference date (in addition to any other meetings held during that period).

[F139(1A) Every private company that is a traded company must hold a general meeting as its annual general meeting in each period of 9 months beginning with the day following its accounting reference date (in addition to any other meetings held during that period).**]**

(2) A company that fails to comply with subsection (1) **[**F140 or (1A)**]** as a result of giving notice under section 392 (alteration of accounting reference date)—

(a) specifying a new accounting reference date, and

(b) stating that the current accounting reference period or the previous accounting reference period is to be shortened,

shall be treated as if it had complied with subsection (1) if it holds a general meeting as its annual general meeting within 3 months of giving that notice.

(3) If a company fails to comply with subsection (1) **[**F140 or (1A)**]**, an offence is committed by every officer of the company who is in default.

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

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

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

Textual Amendments

F138 Words in s. 336 section heading inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 15(4)** (with application as stated in reg. 1(2))

F139 S. 336(1A) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 15(2)** (with application as stated in reg. 1(2))

F140 Words in s. 336(2)(3) substituted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 15(3)** (with application as stated in reg. 1(2))

Commencement Information

I155 S. 336 wholly in force at 1.10.2007; s. 336 not in force at Royal Assent see s. 1300; s. 336 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

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337 Public companies [F141and traded companies]: notice of AGM

(1) A notice calling an annual general meeting of a public company **[**F142or a private company that is a traded company**]** must state that the meeting is an annual general meeting.

(2) An annual general meeting **[**F143of a public company that is not a traded company**]** may be called by shorter notice than that required by section 307(2) or by the company's articles (as the case may be), if all the members entitled to attend and vote at the meeting agree to the shorter notice.

[F144(3) Where a notice calling an annual general meeting of a traded company is given more than 6 weeks before the meeting, the notice must include—

(a) if the company is a public company, a statement of the right under section 338 to require the company to give notice of a resolution to be moved at the meeting, and

(b) whether or not the company is a public company, a statement of the right under section 338A to require the company to include a matter in the business to be dealt with at the meeting.**]**

Textual Amendments

F141 Words in s. 337 section heading inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 16(5)** (with application as stated in reg. 1(2))

F142 Words in s. 337(1) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 16(2)** (with application as stated in reg. 1(2))

F143 Words in s. 337(2) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 16(3)** (with application as stated in reg. 1(2))

F144 S. 337(3) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 16(4)** (with application as stated in reg. 1(2))

Commencement Information

I156 S. 337 wholly in force at 1.10.2007; s. 337 not in force at Royal Assent see s. 1300; s. 337 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

338 Public companies: members' power to require circulation of resolutions for AGMs

(1) The members of a public company may require the company to give, to members of the company entitled to receive notice of the next annual general meeting, notice of a resolution which may properly be moved and is intended to be moved at that meeting.

(2) A resolution may properly be moved at an annual general meeting unless—

(a) it would, if passed, be ineffective (whether by reason of inconsistency with any enactment or the company's constitution or otherwise),

(b) it is defamatory of any person, or

(c) it is frivolous or vexatious.

(3) A company is required to give notice of a resolution once it has received requests that it do so from—

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(a) members representing at least 5% of the total voting rights of all the members who have a right to vote on the resolution at the annual general meeting to which the requests relate (excluding any voting rights attached to any shares in the company held as treasury shares), or

(b) at least 100 members who have a right to vote on the resolution at the annual general meeting to which the requests relate and hold shares in the company on which there has been paid up an average sum, per member, of at least £100.

See also section 153 (exercise of rights where shares held on behalf of others).

(4) A request—

(a) may be in hard copy form or in electronic form,

(b) must identify the resolution of which notice is to be given,

(c) must be authenticated by the person or persons making it, and

(d) must be received by the company not later than—

(i) 6 weeks before the annual general meeting to which the requests relate, or

(ii) if later, the time at which notice is given of that meeting.

Commencement Information

I157 S. 338 wholly in force at 1.10.2007; s. 338 not in force at Royal Assent see s. 1300; s. 338 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

[F145 338A Traded companies: members' power to include other matters in business dealt with at AGM

(1) The members of a traded company may request the company to include in the business to be dealt with at an annual general meeting any matter (other than a proposed resolution) which may properly be included in the business.

(2) A matter may properly be included in the business at an annual general meeting unless –

(a) it is defamatory of any person, or

(b) it is frivolous or vexatious.

(3) A company is required to include such a matter once it has received requests that it do so from—

(a) members representing at least 5% of the total voting rights of all the members who have a right to vote at the meeting, or

(b) at least 100 members who have a right to vote at the meeting and hold shares in the company on which there has been paid up an average sum, per member, of at least £100.

See also section 153 (exercise of rights where shares held on behalf of others).

(4) A request—

(a) may be in hard copy form or in electronic form,

(b) must identify the matter to be included in the business,

(c) must be accompanied by a statement setting out the grounds for the request, and

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(d) must be authenticated by the person or persons making it.

(5) A request must be received by the company not later than—

(a) 6 weeks before the meeting, or

(b) if later, the time at which notice is given of the meeting.**]**

Textual Amendments

F145 S. 338A inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 17(1)** (with application as stated in reg. 1(2))

339 Public companies: company's duty to circulate members' resolutions for AGMs

(1) A company that is required under section 338 to give notice of a resolution must send a copy of it to each member of the company entitled to receive notice of the annual general meeting—

(a) in the same manner as notice of the meeting, and

(b) at the same time as, or as soon as reasonably practicable after, it gives notice of the meeting.

(2) Subsection (1) has effect subject to section 340(2) (deposit or tender of sum in respect of expenses of circulation).

(3) The business which may be dealt with at an annual general meeting includes a resolution of which notice is given in accordance with this section.

(4) In the event of default in complying with this section, an offence is committed by every officer of the company who is in default.

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

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

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

Commencement Information

I158 S. 339 wholly in force at 1.10.2007; s. 339 not in force at Royal Assent see s. 1300; s. 339 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

340 Public companies: expenses of circulating members' resolutions for AGM

(1) The expenses of the company in complying with section 339 need not be paid by the members who requested the circulation of the resolution if requests sufficient to require the company to circulate it are received before the end of the financial year preceding the meeting.

(2) Otherwise—

(a) the expenses of the company in complying with that section must be paid by the members who requested the circulation of the resolution unless the company resolves otherwise, and

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(b) unless the company has previously so resolved, it is not bound to comply with that section unless there is deposited with or tendered to it, not later than—

(i) six weeks before the annual general meeting to which the requests relate, or

(ii) if later, the time at which notice is given of that meeting,

a sum reasonably sufficient to meet its expenses in complying with that section.

Commencement Information

I159 S. 340 wholly in force at 1.10.2007; s. 340 not in force at Royal Assent see s. 1300; s. 340 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

[F146 340A Traded companies: duty to circulate members' matters for AGM

(1) A company that is required under section 338A to include any matter in the business to be dealt with at an annual general meeting must—

(a) give notice of it to each member of the company entitled to receive notice of the annual general meeting—

(i) in the same manner as notice of the meeting, and

(ii) at the same time as, or as soon as reasonably practicable after, it gives notice of the meeting, and

(b) publish it on the same website as that on which the company published the information required by section 311A.

(2) Subsection (1) has effect subject to section 340B(2) (deposit or tender of sum in respect of expenses of circulation).

(3) In the event of default in complying with this section, an offence is committed by every officer of the company who is in default.

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

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

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

Textual Amendments

F146 Ss. 340A 340B inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 18** (with application as stated in reg. 1(2))

340B Traded companies: expenses of circulating members' matters to be dealt with at AGM

(1) The expenses of the company in complying with section 340A need not be paid by the members who requested the inclusion of the matter in the business to be dealt with at the annual general meeting if requests sufficient to require the company to include the matter are received before the end of the financial year preceding the meeting.

(2) Otherwise—

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the expenses of the company in complying with that section must be paid by the members who requested the inclusion of the matter unless the company resolves otherwise, and

(b) unless the company has previously so resolved, it is not bound to comply with that section unless there is deposited with or tendered to it, not later than—

(i) six weeks before the annual general meeting to which the requests relate, or

(ii) if later, the time at which notice is given of that meeting,

a sum reasonably sufficient to meet its expenses in complying with that section.**]**

Textual Amendments

F146 Ss. 340A 340B inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 18** (with application as stated in reg. 1(2))

CHAPTER 5

ADDITIONAL REQUIREMENTS FOR QUOTED COMPANIES **[**[F147]AND TRADED COMPANIES**]**

Textual Amendments

F147 Words in Pt. 13 Ch. 5 heading inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 19(5)** (with application as stated in reg. 1(2))

Website publication of poll results

341 Results of poll to be made available on website

(1) Where a poll is taken at a general meeting of a quoted company **[**[F148]that is not a traded company**]**, the company must ensure that the following information is made available on a website—

(a) the date of the meeting,

(b) the text of the resolution or, as the case may be, a description of the subject matter of the poll,

(c) the number of votes cast in favour, and

(d) the number of votes cast against.

[[F149](1A) Where a poll is taken at a general meeting of a traded company, the company must ensure that the following information is made available on a website—

(a) the date of the meeting,

(b) the text of the resolution or, as the case may be, a description of the subject matter of the poll,

(c) the number of votes validly cast,

(d) the proportion of the company's issued share capital (determined at the time at which the right to vote is determined under section 360B(2)) represented by those votes,

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(e) the number of votes cast in favour,

(f) the number of votes cast against, and

(g) the number of abstentions (if counted).

(1B) A traded company must comply with subsection (1A) by—

(a) the end of 16 days beginning with the day of the meeting, or

(b) if later, the end of the first working day after the day on which the result of the poll is declared.**]**

(2) The provisions of section 353 (requirements as to website availability) apply.

(3) In the event of default in complying with this section (or with the requirements of section 353 as it applies for the purposes of this section), an offence is committed by every officer of the company who is in default.

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

(5) Failure to comply with this section (or the requirements of section 353) does not affect the validity of—

(a) the poll, or

(b) the resolution or other business (if passed or agreed to) to which the poll relates.

(6) This section only applies to polls taken after this section comes into force.

Textual Amendments

F148 Words in s. 341(1) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 19(2)** (with application as stated in reg. 1(2))

F149 S. 341(1A)(1B) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 19(3)** (with application as stated in reg. 1(2))

Independent report on poll

342 Members' power to require independent report on poll

(1) The members of a quoted company may require the directors to obtain an independent report on any poll taken, or to be taken, at a general meeting of the company.

(2) The directors are required to obtain an independent report if they receive requests to do so from—

(a) members representing not less than 5% of the total voting rights of all the members who have a right to vote on the matter to which the poll relates (excluding any voting rights attached to any shares in the company held as treasury shares), or

(b) not less than 100 members who have a right to vote on the matter to which the poll relates and hold shares in the company on which there has been paid up an average sum, per member, of not less than £100.

See also section 153 (exercise of rights where shares held on behalf of others).

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Where the requests relate to more than one poll, subsection (2) must be satisfied in relation to each of them.

(4) A request—

(a) may be in hard copy form or in electronic form,

(b) must identify the poll or polls to which it relates,

(c) must be authenticated by the person or persons making it, and

(d) must be received by the company not later than one week after the date on which the poll is taken.

343 Appointment of independent assessor

(1) Directors who are required under section 342 to obtain an independent report on a poll or polls must appoint a person they consider to be appropriate (an "independent assessor") to prepare a report for the company on it or them.

(2) The appointment must be made within one week after the company being required to obtain the report.

(3) The directors must not appoint a person who—

(a) does not meet the independence requirement in section 344, or

(b) has another role in relation to any poll on which he is to report (including, in particular, a role in connection with collecting or counting votes or with the appointment of proxies).

(4) In the event of default in complying with this section, an offence is committed by every officer of the company who is in default.

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

(6) If at the meeting no poll on which a report is required is taken—

(a) the directors are not required to obtain a report from the independent assessor, and

(b) his appointment ceases (but without prejudice to any right to be paid for work done before the appointment ceased).

344 Independence requirement

(1) A person may not be appointed as an independent assessor—

(a) if he is—

(i) an officer or employee of the company, or

(ii) a partner or employee of such a person, or a partnership of which such a person is a partner;

(b) if he is—

(i) an officer or employee of an associated undertaking of the company, or

(ii) a partner or employee of such a person, or a partnership of which such a person is a partner;

(c) if there exists between—

(i) the person or an associate of his, and

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(ii) the company or an associated undertaking of the company,

a connection of any such description as may be specified by regulations made by the Secretary of State.

(2) An auditor of the company is not regarded as an officer or employee of the company for this purpose.

(3) In this section—

"associated undertaking" means—

(a) a parent undertaking or subsidiary undertaking of the company, or

(b) a subsidiary undertaking of a parent undertaking of the company; and

"associate" has the meaning given by section 345.

(4) Regulations under this section are subject to negative resolution procedure.

Commencement Information

I160 S. 344 wholly in force at 1.10.2007; s. 344 not in force at Royal Assent, see s. 1300; s. 344 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 344 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

345 Meaning of "associate"

(1) This section defines "associate" for the purposes of section 344 (independence requirement).

(2) In relation to an individual, "associate" means—

(a) that individual's spouse or civil partner or minor child or step-child,

(b) any body corporate of which that individual is a director, and

(c) any employee or partner of that individual.

(3) In relation to a body corporate, "associate" means—

(a) any body corporate of which that body is a director,

(b) any body corporate in the same group as that body, and

(c) any employee or partner of that body or of any body corporate in the same group.

(4) In relation to a partnership that is a legal person under the law by which it is governed, "associate" means—

(a) any body corporate of which that partnership is a director,

(b) any employee of or partner in that partnership, and

(c) any person who is an associate of a partner in that partnership.

(5) In relation to a partnership that is not a legal person under the law by which it is governed, "associate" means any person who is an associate of any of the partners.

(6) In this section, in relation to a limited liability partnership, for "director" read "member".

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

346 Effect of appointment of a partnership

(1) This section applies where a partnership that is not a legal person under the law by which it is governed is appointed as an independent assessor.

(2) Unless a contrary intention appears, the appointment is of the partnership as such and not of the partners.

(3) Where the partnership ceases, the appointment is to be treated as extending to—

(a) any partnership that succeeds to the practice of that partnership, or

(b) any other person who succeeds to that practice having previously carried it on in partnership.

(4) For the purposes of subsection (3)—

(a) a partnership is regarded as succeeding to the practice of another partnership only if the members of the successor partnership are substantially the same as those of the former partnership, and

(b) a partnership or other person is regarded as succeeding to the practice of a partnership only if it or he succeeds to the whole or substantially the whole of the business of the former partnership.

(5) Where the partnership ceases and the appointment is not treated under subsection (3) as extending to any partnership or other person, the appointment may with the consent of the company be treated as extending to a partnership, or other person, who succeeds to—

(a) the business of the former partnership, or

(b) such part of it as is agreed by the company is to be treated as comprising the appointment.

347 The independent assessor's report

(1) The report of the independent assessor must state his opinion whether—

(a) the procedures adopted in connection with the poll or polls were adequate;

(b) the votes cast (including proxy votes) were fairly and accurately recorded and counted;

(c) the validity of members' appointments of proxies was fairly assessed;

(d) the notice of the meeting complied with section 325 (notice of meeting to contain statement of rights to appoint proxy);

(e) section 326 (company-sponsored invitations to appoint proxies) was complied with in relation to the meeting.

(2) The report must give his reasons for the opinions stated.

(3) If he is unable to form an opinion on any of those matters, the report must record that fact and state the reasons for it.

(4) The report must state the name of the independent assessor.

348 Rights of independent assessor: right to attend meeting etc

(1) Where an independent assessor has been appointed to report on a poll, he is entitled to attend—

(a) the meeting at which the poll may be taken, and

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(b) any subsequent proceedings in connection with the poll.

(2) He is also entitled to be provided by the company with a copy of—

(a) the notice of the meeting, and

(b) any other communication provided by the company in connection with the meeting to persons who have a right to vote on the matter to which the poll relates.

(3) The rights conferred by this section are only to be exercised to the extent that the independent assessor considers necessary for the preparation of his report.

(4) If the independent assessor is a firm, the right under subsection (1) to attend the meeting and any subsequent proceedings in connection with the poll is exercisable by an individual authorised by the firm in writing to act as its representative for that purpose.

349 Rights of independent assessor: right to information

(1) The independent assessor is entitled to access to the company's records relating to—

(a) any poll on which he is to report;

(b) the meeting at which the poll or polls may be, or were, taken.

(2) The independent assessor may require anyone who at any material time was—

(a) a director or secretary of the company,

(b) an employee of the company,

(c) a person holding or accountable for any of the company's records,

(d) a member of the company, or

(e) an agent of the company,

to provide him with information or explanations for the purpose of preparing his report.

(3) For this purpose "agent" includes the company's bankers, solicitors and auditor.

(4) A statement made by a person in response to a requirement under this section may not be used in evidence against him in criminal proceedings except proceedings for an offence under section 350 (offences relating to provision of information).

(5) A person is not required by this section to disclose information in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

350 Offences relating to provision of information

(1) A person who fails to comply with a requirement under section 349 without delay commits an offence unless it was not reasonably practicable for him to provide the required information or explanation.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) A person commits an offence who knowingly or recklessly makes to an independent assessor a statement (oral or written) that—

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(a) conveys or purports to convey any information or explanations which the independent assessor requires, or is entitled to require, under section 349, and

(b) is misleading, false or deceptive in a material particular.

(4) A person guilty of an offence under subsection (3) is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

(5) Nothing in this section affects any right of an independent assessor to apply for an injunction (in Scotland, an interdict or an order for specific performance) to enforce any of his rights under section 348 or 349.

351 Information to be made available on website

(1) Where an independent assessor has been appointed to report on a poll, the company must ensure that the following information is made available on a website—

(a) the fact of his appointment,

(b) his identity,

(c) the text of the resolution or, as the case may be, a description of the subject matter of the poll to which his appointment relates, and

(d) a copy of a report by him which complies with section 347.

(2) The provisions of section 353 (requirements as to website availability) apply.

(3) In the event of default in complying with this section (or with the requirements of section 353 as it applies for the purposes of this section), an offence is committed by every officer of the company who is in default.

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

(5) Failure to comply with this section (or the requirements of section 353) does not affect the validity of—

(a) the poll, or

(b) the resolution or other business (if passed or agreed to) to which the poll relates.

Supplementary

352 Application of provisions to class meetings

[[F150](1) The provisions of section 341 (results of poll to be made available on website) apply (with any necessary modifications) in relation to a meeting of holders of a class of shares of a quoted company or traded company in connection with the variation of

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the rights attached to such shares as they apply in relation to a general meeting of the company.

(1A) The provisions of section 342 to 351 (independent report on poll) apply (with any necessary modifications) in relation to a meeting of holders of a class of shares of a quoted company in connection with the variation of the rights attached to such shares as they apply in relation to a general meeting of the company.**]**

(2) For the purposes of this section—

(a) any amendment of a provision contained in a company's articles for the variation of the rights attached to a class of shares, or the insertion of any such provision into the articles, is itself to be treated as a variation of those rights, and

(b) references to the variation of rights attached to a class of shares include references to their abrogation.

Textual Amendments

F150 S. 352(1)(1A) substituted for s. 352(1) (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 19(4)** (with application as stated in reg. 1(2))

353 Requirements as to website availability

(1) The following provisions apply for the purposes of—

section 341 (results of poll to be made available on website), and

section 351 (report of independent observer to be made available on website).

(2) The information must be made available on a website that—

(a) is maintained by or on behalf of the company, and

(b) identifies the company in question.

(3) Access to the information on the website, and the ability to obtain a hard copy of the information from the website, must not be conditional on the payment of a fee or otherwise restricted.

(4) The information—

(a) must be made available as soon as reasonably practicable, and

(b) must be kept available throughout the period of two years beginning with the date on which it is first made available on a website in accordance with this section.

(5) A failure to make information available on a website throughout the period specified in subsection (4)(b) is disregarded if—

(a) the information is made available on the website for part of that period, and

(b) the failure is wholly attributable to circumstances that it would not be reasonable to have expected the company to prevent or avoid.

354 Power to limit or extend the types of company to which provisions of this Chapter apply

(1) The Secretary of State may by regulations—

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(a) limit the types of company to which some or all of the provisions of this Chapter apply, or

(b) extend some or all of the provisions of this Chapter to additional types of company.

(2) Regulations under this section extending the application of any provision of this Chapter are subject to affirmative resolution procedure.

(3) Any other regulations under this section are subject to negative resolution procedure.

(4) Regulations under this section may—

(a) amend the provisions of this Chapter (apart from this section);

(b) repeal and re-enact provisions of this Chapter with modifications of form or arrangement, whether or not they are modified in substance;

(c) contain such consequential, incidental and supplementary provisions (including provisions amending, repealing or revoking enactments) as the Secretary of State thinks fit.

Commencement Information

I161 S. 354 wholly in force at 1.10.2007; s. 354 not in force at Royal Assent, see s. 1300; s. 354 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 354 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

CHAPTER 6

RECORDS OF RESOLUTIONS AND MEETINGS

355 Records of resolutions and meetings etc

(1) Every company must keep records comprising—

(a) copies of all resolutions of members passed otherwise than at general meetings,

(b) minutes of all proceedings of general meetings, and

(c) details provided to the company in accordance with section 357 (decisions of sole member).

(2) The records must be kept for at least ten years from the date of the resolution, meeting or decision (as appropriate).

(3) If a company fails to comply with this section, an offence is committed by every officer of the company who is in default.

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

356 Records as evidence of resolutions etc

(1) This section applies to the records kept in accordance with section 355.

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(2) The record of a resolution passed otherwise than at a general meeting, if purporting to be signed by a director of the company or by the company secretary, is evidence (in Scotland, sufficient evidence) of the passing of the resolution.

(3) Where there is a record of a written resolution of a private company, the requirements of this Act with respect to the passing of the resolution are deemed to be complied with unless the contrary is proved.

(4) The minutes of proceedings of a general meeting, if purporting to be signed by the chairman of that meeting or by the chairman of the next general meeting, are evidence (in Scotland, sufficient evidence) of the proceedings at the meeting.

(5) Where there is a record of proceedings of a general meeting of a company, then, until the contrary is proved—

(a) the meeting is deemed duly held and convened,

(b) all proceedings at the meeting are deemed to have duly taken place, and

(c) all appointments at the meeting are deemed valid.

357 Records of decisions by sole member

(1) This section applies to a company limited by shares or by guarantee that has only one member.

(2) Where the member takes any decision that—

(a) may be taken by the company in general meeting, and

(b) has effect as if agreed by the company in general meeting,

he must (unless that decision is taken by way of a written resolution) provide the company with details of that decision.

(3) If a person fails to comply with this section he commits an offence.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) Failure to comply with this section does not affect the validity of any decision referred to in subsection (2).

358 Inspection of records of resolutions and meetings

(1) The records referred to in section 355 (records of resolutions etc) relating to the previous ten years must be kept available for inspection—

(a) at the company's registered office, or

(b) at a place specified in regulations under section 1136.

(2) The company must give notice to the registrar—

(a) of the place at which the records are kept available for inspection, and

(b) of any change in that place,

unless they have at all times been kept at the company's registered office.

(3) The records must be open to the inspection of any member of the company without charge.

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(4) Any member may require a copy of any of the records on payment of such fee as may be prescribed.

(5) If default is made for 14 days in complying with subsection (2) or an inspection required under subsection (3) is refused, or a copy requested under subsection (4) is not sent, an offence is committed by every officer of the company who is in default.

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

(7) In a case in which an inspection required under subsection (3) is refused or a copy requested under subsection (4) is not sent, the court may by order compel an immediate inspection of the records or direct that the copies required be sent to the persons who requested them.

Modifications etc. (not altering text)

C500 S. 358 modified (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **11(a)(vi)**

Commencement Information

I162 S. 358 wholly in force at 1.10.2007; s. 358 not in force at Royal Assent, see s. 1300; s. 358 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 358 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(f)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

359 Records of resolutions and meetings of class of members

The provisions of this Chapter apply (with necessary modifications) in relation to resolutions and meetings of—

(a) holders of a class of shares, and

(b) in the case of a company without a share capital, a class of members,

as they apply in relation to resolutions of members generally and to general meetings.

CHAPTER 7

SUPPLEMENTARY PROVISIONS

360 Computation of periods of notice etc: clear day rule

(1) This section applies for the purposes of the following provisions of this Part—

section 307(1) and (2) (notice required of general meeting),

[[F151]section 307A(1), (4), (5) and (7)(b) (notice required of general meeting of traded company), **]**

section 312(1) and (3) (resolution requiring special notice),

section 314(4)(d) (request to circulate members' statement),

section 316(2)(b) (expenses of circulating statement to be deposited or tendered before meeting),

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[F152section 337(3) (contents of notice of AGM of traded company),**]**

section 338(4)(d)(i) (request to circulate member's resolution at AGM of public company),F153. . .

[F154section 338A(5) (request to include matter in the business to be dealt with at AGM of traded company),**]**

section 340(2)(b)(i) (expenses of circulating statement to be deposited or tendered before meeting)**[**F155, and

section 340B(2)(b) (traded companies: duty to circulate members' matters for AGM).**]**

(2) Any reference in those provisions to a period of notice, or to a period before a meeting by which a request must be received or sum deposited or tendered, is to a period of the specified length excluding—

(a) the day of the meeting, and

(b) the day on which the notice is given, the request received or the sum deposited or tendered.

Textual Amendments

F151 Words in s. 360(1) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 9(3)** (with application as stated in reg. 1(2))

F152 Words in s. 360 inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 16(6)** (with application as stated in reg. 1(2))

F153 Word in s. 360(1) omitted (3.8.2009) by virtue of The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 18(2)**

F154 Words in s. 360(1) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 17(4)** (with application as stated in reg. 1(2))

F155 Words in s. 360(1) inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 18(2)** (with application as stated in reg. 1(2))

[F156360A Electronic meetings and voting

(1) Nothing in this Part is to be taken to preclude the holding and conducting of a meeting in such a way that persons who are not present together at the same place may by electronic means attend and speak and vote at it.

(2) In the case of a traded company the use of electronic means for the purpose of enabling members to participate in a general meeting may be made subject only to such requirements and restrictions as are—

(a) necessary to ensure the identification of those taking part and the security of the electronic communication, and

(b) proportionate to the achievement of those objectives.

(3) Nothing in subsection (2) affects any power of a company to require reasonable evidence of the entitlement of any person who is not a member to participate in the meeting.**]**

Status: *Point in time view as at 31/12/2020.*
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Textual Amendments

F156 S. 360A inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 8** (with application as stated in reg. 1(2))

[F157 360AA Traded companies: confirmation of receipt of electronic voting

(1) In the case of a traded company, where a vote is cast on a poll by electronic means the company must ensure that, as soon as reasonably practicable after the vote has been received, confirmation of receipt of the vote is sent by electronic means to—

(a) the member, where that person cast the vote,

(b) the proxy, where the vote was cast by proxy, or

(c) the representative, where the vote was cast by a person authorised to act as a representative of a corporation in accordance with section 323(1).

(2) A vote under subsection (1) includes any vote cast—

(a) at a meeting;

(b) at an electronic meeting conducted in accordance with section 360A;

(c) in advance of a meeting or electronic meeting (see section 322A).**]**

Textual Amendments

F157 S. 360AA inserted (3.9.2020) by The Companies (Shareholders Rights to Voting Confirmations) Regulations 2020 (S.I. 2020/717), regs. 1(2), **4(1)** (with reg. 2)

[F158 360B Traded companies: requirements for participating in and voting at general meetings

(1) Any provision of a traded company's articles is void in so far as it would have the effect of—

(a) imposing a restriction on a right of a member to participate in and vote at a general meeting of the company unless the member's shares have (after having been acquired by the member and before the meeting) been deposited with, or transferred to, or registered in the name of another person, or

(b) imposing a restriction on the right of a member to transfer shares in the company during the period of 48 hours before the time for the holding of a general meeting of the company if that right would not otherwise be subject to that restriction.

(2) A traded company must determine the right to vote at a general meeting of the company by reference to the register of members as at a time (determined by the company) that is not more than 48 hours before the time for the holding of the meeting.

(3) In calculating the period mentioned in subsection (1)(b) or (2), no account is to be taken of any part of a day that is not a working day.

(4) Nothing in this section affects—

(a) the operation of—

(i) Part 22 of this Act (information about interests in a company's shares),

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(ii) Part 15 of the Companies Act 1985 [F159] (orders imposing restrictions on shares), or

(iii) any provision in a company's articles relating to the application of any provision of either of those Parts; or

(b) the validity of articles prescribed, or to the same effect as articles prescribed, under section 19 of this Act (power of Secretary of State to prescribe model articles).

[F160](5) **[** If an election is in force under section 128B in respect of a company, the reference in subsection (2) to the register of members is to be read as a reference to the register kept by the registrar under section 1080.**]]**

Textual Amendments

F158 S. 360B inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 20** (with application as stated in reg. 1(2))

F159 1985 c. 6.

F160 S. 360B(5) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 18**; S.I. 2016/321, reg. 6(c)

[F161360BATraded companies: right to confirmation of vote after a general meeting

(1) Where the conditions in subsection (2) are met, a traded company must provide information to a member which enables the member to confirm that their vote on a resolution at a general meeting where a poll has been taken has been validly recorded and counted.

(2) The conditions are that—

(a) the member makes a request for the information, which request is received by the company no later than 30 days from the date of that general meeting, and

(b) the member does not have any other reasonable means by which to determine that their vote has been validly recorded and counted by the company.

(3) The information under subsection (1) must be provided to the member as soon as reasonably practicable and in any event by the end of the period of 15 days beginning with whichever is the later of the first working day after the day on which—

(a) the result of the poll is declared for that resolution; or

(b) the request for information under subsection (2)(a) is received by the company.**]**

Textual Amendments

F161 S. 360BA inserted (3.9.2020) by The Companies (Shareholders Rights to Voting Confirmations) Regulations 2020 (S.I. 2020/717), regs. 1(2), **5(1)** (with reg. 3)

[F162360CMeaning of "traded company"

In this Part, " traded company " means a company any shares of which—

(a) carry rights to vote at general meetings, and

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(b) are admitted to trading on a **[**[F163]UK regulated market or an EU regulated market**]** by or with the consent of the company. **]**

Textual Amendments

F162 S. 360C inserted (3.8.2009) by The Companies (Shareholders' Rights) Regulations 2009 (S.I. 2009/1632), **reg. 21(1)** (with application as stated in reg. 1(2))

F163 Words in s. 360C(b) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 6**; 2020 c. 1, Sch. 5 para. 1(1)

361 Meaning of "quoted company"

In this Part "quoted company" has the same meaning as in Part 15 of this Act.

PART 14

CONTROL OF POLITICAL DONATIONS AND EXPENDITURE

Modifications etc. (not altering text)

C501 Pt. 14 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 16** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C502 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

Introductory

362 Introductory

This Part has effect for controlling—

(a) political donations made by companies to political parties, to other political organisations and to independent election candidates, and

(b) political expenditure incurred by companies.

Modifications etc. (not altering text)

C503 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I163 S. 362 wholly in force at 1.10.2008; s. 362 not in force at Royal Assent see s. 1300; s. 362 in force for certain purposes at 1.10.2007 (E.W.S.) and 1.11.2007 (N.I.) and in force otherwise at. 1.10.2008 by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, **5(1)(a)** (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Donations and expenditure to which this Part applies

363 Political parties, organisations etc to which this Part applies

[F164(1) This Part applies to a political party if it is registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 (c. 41).**]**

(2) This Part applies to an organisation (a "political organisation") if it carries on, or proposes to carry on, activities that are capable of being reasonably regarded as intended—

(a) to affect public support for a political party to which, or an independent election candidate to whom, this Part applies, or

(b) to influence voters in relation to any national or regional referendum held under the law of the United Kingdom F165....

(3) This Part applies to an independent election candidate at any election to public office held in the United Kingdom F166....

(4) Any reference in the following provisions of this Part to a political party, political organisation or independent election candidate, or to political expenditure, is to a party, organisation, independent candidate or expenditure to which this Part applies.

Textual Amendments

F164 S. 363(1) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 7(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F165 Words in s. 363(2)(b) omitted (31.12.2020) by virtue of The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 7(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F166 Words in s. 363(3) omitted (31.12.2020) by virtue of The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 7(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C504 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I164 S. 363 wholly in force at 1.10.2008; s. 363 not in force at Royal Assent see s. 1300; s. 363 in force for certain purposes at 1.10.2007 (E.W.S.) and 1.11.2007 (N.I.) and in force otherwise at. 1.10.2008 by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, **5(1)(b)-(d)** (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

364 Meaning of "political donation"

(1) The following provisions have effect for the purposes of this Part as regards the meaning of "political donation".

(2) In relation to a political party or other political organisation—

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(a) "political donation" means anything that in accordance with sections 50 to 52 of the Political Parties, Elections and Referendums Act 2000—

(i) constitutes a donation for the purposes of Chapter 1 of Part 4 of that Act (control of donations to registered parties), or

(ii) would constitute such a donation reading references in those sections to a registered party as references to any political party or other political organisation,

and

(b) section 53 of that Act applies, in the same way, for the purpose of determining the value of a donation.

(3) In relation to an independent election candidate—

(a) "political donation" means anything that, in accordance with sections 50 to 52 of that Act, would constitute a donation for the purposes of Chapter 1 of Part 4 of that Act (control of donations to registered parties) reading references in those sections to a registered party as references to the independent election candidate,

and

(b) section 53 of that Act applies, in the same way, for the purpose of determining the value of a donation.

(4) For the purposes of this section, sections 50 and 53 of the Political Parties, Elections and Referendums Act 2000 (c. 41) (definition of "donation" and value of donations) shall be treated as if the amendments to those sections made by the Electoral Administration Act 2006 (which remove from the definition of "donation" loans made otherwise than on commercial terms) had not been made.

Modifications etc. (not altering text)

C505 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I165 S. 364 wholly in force at 1.10.2008; s. 364 not in force at Royal Assent see s. 1300; s. 364 in force for certain purposes at 1.10.2007 (E.W.S.) and 1.11.2007 (N.I.) and in force otherwise at. 1.10.2008 by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, **5(1)(e)** (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

365 Meaning of "political expenditure"

(1) In this Part "political expenditure", in relation to a company, means expenditure incurred by the company on—

(a) the preparation, publication or dissemination of advertising or other promotional or publicity material—

(i) of whatever nature, and

(ii) however published or otherwise disseminated,

that, at the time of publication or dissemination, is capable of being reasonably regarded as intended to affect public support for a political party or other political organisation, or an independent election candidate, or

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(b) activities on the part of the company that are capable of being reasonably regarded as intended—

(i) to affect public support for a political party or other political organisation, or an independent election candidate, or

(ii) to influence voters in relation to any national or regional referendum held under the law of **[**F167the United Kingdom**]**.

(2) For the purposes of this Part a political donation does not count as political expenditure.

Textual Amendments

F167 Words in s. 365(1)(b)(ii) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 8**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C506 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I166 S. 365 wholly in force at 1.10.2008; s. 365 not in force at Royal Assent see s. 1300; s. 365 in force for certain purposes at 1.10.2007 (E.W.S.) and 1.11.2007 (N.I.) and in force otherwise at. 1.10.2008 by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, **5(1)(f)** (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

Authorisation required for donations or expenditure

366 Authorisation required for donations or expenditure

(1) A company must not—

(a) make a political donation to a political party or other political organisation, or to an independent election candidate, or

(b) incur any political expenditure,

unless the donation or expenditure is authorised in accordance with the following provisions.

(2) The donation or expenditure must be authorised—

(a) in the case of a company that is not a subsidiary of another company, by a resolution of the members of the company;

(b) in the case of a company that is a subsidiary of another company by—

(i) a resolution of the members of the company, and

(ii) a resolution of the members of any relevant holding company.

(3) No resolution is required on the part of a company that is a wholly-owned subsidiary of a UK-registered company.

(4) For the purposes of subsection (2)(b)(ii) a "relevant holding company" means a company that, at the time the donation was made or the expenditure was incurred—

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(a) was a holding company of the company by which the donation was made or the expenditure was incurred,

(b) was a UK-registered company, and

(c) was not a subsidiary of another UK-registered company.

(5) The resolution or resolutions required by this section—

(a) must comply with section 367 (form of authorising resolution), and

(b) must be passed before the donation is made or the expenditure incurred.

(6) Nothing in this section enables a company to be authorised to do anything that it could not lawfully do apart from this section.

Modifications etc. (not altering text)

C507 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I167 S. 366 wholly in force at 1.10.2008; s. 366 not in force at Royal Assent see s. 1300; s. 366 in force for certain purposes at 1.10.2007 (E.W.S.) and 1.11.2007 (N.I.) and in force otherwise at. 1.10.2008 by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, **5(1)(g)** (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

367 Form of authorising resolution

(1) A resolution conferring authorisation for the purposes of this Part may relate to—

(a) the company passing the resolution,

(b) one or more subsidiaries of that company, or

(c) the company passing the resolution and one or more subsidiaries of that company.

(2) A resolution may be expressed to relate to all companies that are subsidiaries of the company passing the resolution—

(a) at the time the resolution is passed, or

(b) at any time during the period for which the resolution has effect,

without identifying them individually.

(3) The resolution may authorise donations or expenditure under one or more of the following heads—

(a) donations to political parties or independent election candidates;

(b) donations to political organisations other than political parties;

(c) political expenditure.

(4) The resolution must specify a head or heads—

(a) in the case of a resolution under subsection (2), for all of the companies to which it relates taken together;

(b) in the case of any other resolution, for each company to which it relates.

(5) The resolution must be expressed in general terms conforming with **[**[F168]subsection (3)**]** and must not purport to authorise particular donations or expenditure.

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(6) For each of the specified heads the resolution must authorise donations or, as the case may be, expenditure up to a specified amount in the period for which the resolution has effect (see section 368).

(7) The resolution must specify such amounts—

(a) in the case of a resolution under subsection (2), for all of the companies to which it relates taken together;

(b) in the case of any other resolution, for each company to which it relates.

Textual Amendments

F168 Words in s. 367(5) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 260(2)** (with art. 10)

Modifications etc. (not altering text)

C508 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I168 S. 367 wholly in force at 1.10.2008; s. 367 not in force at Royal Assent see s. 1300; s. 367 in force for certain purposes at 1.10.2007 (E.W.S.) and 1.11.2007 (N.I.) and in force otherwise at. 1.10.2008 by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, **5(1)(h)** (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

368 Period for which resolution has effect

(1) A resolution conferring authorisation for the purposes of this Part has effect for a period of four years beginning with the date on which it is passed unless the directors determine, or the articles require, that it is to have effect for a shorter period beginning with that date.

(2) The power of the directors to make a determination under this section is subject to any provision of the articles that operates to prevent them from doing so.

Modifications etc. (not altering text)

C509 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I169 S. 368 wholly in force at 1.11.2007; s. 368 not in force at Royal Assent see s. 1300; s. 368 in force at 1.10.2007 (E.W.S.) and at 1.11.2007 (N.I.) by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

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Remedies in case of unauthorised donations or expenditure

369 Liability of directors in case of unauthorised donation or expenditure

(1) This section applies where a company has made a political donation or incurred political expenditure without the authorisation required by this Part.

(2) The directors in default are jointly and severally liable—

(a) to make good to the company the amount of the unauthorised donation or expenditure, with interest, and

(b) to compensate the company for any loss or damage sustained by it as a result of the unauthorised donation or expenditure having been made.

(3) The directors in default are—

(a) those who, at the time the unauthorised donation was made or the unauthorised expenditure was incurred, were directors of the company by which the donation was made or the expenditure was incurred, and

(b) where—

(i) that company was a subsidiary of a relevant holding company, and

(ii) the directors of the relevant holding company failed to take all reasonable steps to prevent the donation being made or the expenditure being incurred,

the directors of the relevant holding company.

(4) For the purposes of subsection (3)(b) a "relevant holding company" means a company that, at the time the donation was made or the expenditure was incurred—

(a) was a holding company of the company by which the donation was made or the expenditure was incurred,

(b) was a UK-registered company, and

(c) was not a subsidiary of another UK-registered company.

(5) The interest referred to in subsection (2)(a) is interest on the amount of the unauthorised donation or expenditure, so far as not made good to the company—

(a) in respect of the period beginning with the date when the donation was made or the expenditure was incurred, and

(b) at such rate as the Secretary of State may prescribe by regulations.

Section 379(2) (construction of references to date when donation made or expenditure incurred) does not apply for the purposes of this subsection.

(6) Where only part of a donation or expenditure was unauthorised, this section applies only to so much of it as was unauthorised.

Modifications etc. (not altering text)

C510 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I170 S. 369 wholly in force at 1.11.2007; s. 369 not in force at Royal Assent, see s. 1300; s. 369 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6,

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8, Sch. 5); s. 369 in force at 1.10.2007 (E.W.S.) and at 1.11.2007 (N.I.) by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

370 Enforcement of directors' liabilities by shareholder action

(1) Any liability of a director under section 369 is enforceable—

(a) in the case of a liability of a director of a company to that company, by proceedings brought under this section in the name of the company by an authorised group of its members;

(b) in the case of a liability of a director of a holding company to a subsidiary, by proceedings brought under this section in the name of the subsidiary by—

(i) an authorised group of members of the subsidiary, or

(ii) an authorised group of members of the holding company.

(2) This is in addition to the right of the company to which the liability is owed to bring proceedings itself to enforce the liability.

(3) An "authorised group" of members of a company means—

(a) the holders of not less than 5% in nominal value of the company's issued share capital,

(b) if the company is not limited by shares, not less than 5% of its members, or

(c) not less than 50 of the company's members.

(4) The right to bring proceedings under this section is subject to the provisions of section 371.

(5) Nothing in this section affects any right of a member of a company to bring or continue proceedings under Part 11 (derivative claims or proceedings).

Modifications etc. (not altering text)

C511 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I171 S. 370 wholly in force at 1.11.2007; s. 370 not in force at Royal Assent see s. 1300; s. 370 in force at 1.10.2007 (E.W.S.) and at 1.11.2007 (N.I.) by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

371 Enforcement of directors' liabilities by shareholder action: supplementary

(1) A group of members may not bring proceedings under section 370 in the name of a company unless—

(a) the group has given written notice to the company stating—

(i) the cause of action and a summary of the facts on which the proceedings are to be based,

(ii) the names and addresses of the members comprising the group, and

(iii) the grounds on which it is alleged that those members constitute an authorised group; and

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(b) not less than 28 days have elapsed between the date of the giving of the notice to the company and the bringing of the proceedings.

(2) Where such a notice is given to a company, any director of the company may apply to the court within the period of 28 days beginning with the date of the giving of the notice for an order directing that the proposed proceedings shall not be brought, on one or more of the following grounds—

(a) that the unauthorised amount has been made good to the company;

(b) that proceedings to enforce the liability have been brought, and are being pursued with due diligence, by the company;

(c) that the members proposing to bring proceedings under this section do not constitute an authorised group.

(3) Where an application is made on the ground mentioned in subsection (2)(b), the court may as an alternative to directing that the proposed proceedings under section 370 are not to be brought, direct—

(a) that such proceedings may be brought on such terms and conditions as the court thinks fit, and

(b) that the proceedings brought by the company—

(i) shall be discontinued, or

(ii) may be continued on such terms and conditions as the court thinks fit.

(4) The members by whom proceedings are brought under section 370 owe to the company in whose name they are brought the same duties in relation to the proceedings as would be owed by the company's directors if the proceedings were being brought by the company.

But proceedings to enforce any such duty may be brought by the company only with the permission of the court.

(5) Proceedings brought under section 370 may not be discontinued or settled by the group except with the permission of the court, which may be given on such terms as the court thinks fit.

Modifications etc. (not altering text)

C512 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I172 S. 371 wholly in force at 1.11.2007; s. 371 not in force at Royal Assent see s. 1300; s. 371 in force at 1.10.2007 (E.W.S.) and s. 371 in force at 1.11.2007 (N.I.) by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

372 Costs of shareholder action

(1) This section applies in relation to proceedings brought under section 370 in the name of a company ("the company") by an authorised group ("the group").

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(2) The group may apply to the court for an order directing the company to indemnify the group in respect of costs incurred or to be incurred by the group in connection with the proceedings.

The court may make such an order on such terms as it thinks fit.

(3) The group is not entitled to be paid any such costs out of the assets of the company except by virtue of such an order.

(4) If no such order has been made with respect to the proceedings, then—

(a) if the company is awarded costs in connection with the proceedings, or it is agreed that costs incurred by the company in connection with the proceedings should be paid by any defendant, the costs shall be paid to the group; and

(b) if any defendant is awarded costs in connection with the proceedings, or it is agreed that any defendant should be paid costs incurred by him in connection with the proceedings, the costs shall be paid by the group.

(5) In the application of this section to Scotland for "costs" read "expenses" and for "defendant" read "defender".

Modifications etc. (not altering text)

C513 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I173 S. 372 wholly in force at 1.11.2007; s. 372 not in force at Royal Assent see s. 1300; s. 372 in force at 1.10.2007 (E.W.S.) and at 1.11.2007 (N.I.) by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

373 Information for purposes of shareholder action

(1) Where proceedings have been brought under section 370 in the name of a company by an authorised group, the group is entitled to require the company to provide it with all information relating to the subject matter of the proceedings that is in the company's possession or under its control or which is reasonably obtainable by it.

(2) If the company, having been required by the group to do so, refuses to provide the group with all or any of that information, the court may, on an application made by the group, make an order directing—

(a) the company, and

(b) any of its officers or employees specified in the application,

to provide the group with the information in question in such form and by such means as the court may direct.

Modifications etc. (not altering text)

C514 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Status: *Point in time view as at 31/12/2020.*
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Commencement Information

I174 S. 373 wholly in force at 1.11.2007; s. 373 not in force at Royal Assent see s. 1300; s. 373 in force at 1.10.2007 (E.W.S.) and s. 373 in force at 1.11.2007 (N.I.) by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

Exemptions

374 Trade unions

(1) A donation to a trade union, other than a contribution to the union's political fund, is not a political donation for the purposes of this Part.

(2) A trade union is not a political organisation for the purposes of section 365 (meaning of "political expenditure").

(3) In this section—

"trade union" has the meaning given by section 1 of Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52) or Article 3 of the Industrial Relations (Northern Ireland) Order 1992 (S.I. 1992/807 (N.I. 5));

"political fund" means the fund from which payments by a trade union in the furtherance of political objects are required to be made by virtue of section 82(1)(a) of that Act or Article 57(2)(a) of that Order.

Modifications etc. (not altering text)

C515 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I175 S. 374 wholly in force at 1.11.2007; s. 374 not in force at Royal Assent see s. 1300; s. 374 in force at 1.10.2007 (E.W.S.) and s. 374 in force at 1.11.2007 (N.I.) by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

375 Subscription for membership of trade association

(1) A subscription paid to a trade association for membership of the association is not a political donation for the purposes of this Part.

(2) For this purpose—

"trade association" means an organisation formed for the purpose of furthering the trade interests of its members, or of persons represented by its members, and

"subscription" does not include a payment to the association to the extent that it is made for the purpose of financing any particular activity of the association.

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Modifications etc. (not altering text)

C516 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I176 S. 375 wholly in force at 1.11.2007; s. 375 not in force at Royal Assent see s. 1300; s. 375 in force at 1.10.2007 (E.W.S.) and s. 375 in force at 1.11.2007 (N.I.) by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

376 All-party parliamentary groups

(1) An all-party parliamentary group is not a political organisation for the purposes of this Part.

(2) An "all-party parliamentary group" means an all-party group composed of members of one or both of the Houses of Parliament (or of such members and other persons).

Modifications etc. (not altering text)

C517 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I177 S. 376 wholly in force at 1.11.2007; s. 376 not in force at Royal Assent see s. 1300; s. 376 in force at 1.10.2007 (E.W.S.) and s. 376 in force at 1.11.2007 (N.I.) by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

377 Political expenditure exempted by order

(1) Authorisation under this Part is not needed for political expenditure that is exempt by virtue of an order of the Secretary of State under this section.

(2) An order may confer an exemption in relation to—

(a) companies of any description or category specified in the order, or

(b) expenditure of any description or category so specified (whether framed by reference to goods, services or other matters in respect of which such expenditure is incurred or otherwise),

or both.

(3) If or to the extent that expenditure is exempt from the requirement of authorisation under this Part by virtue of an order under this section, it shall be disregarded in determining what donations are authorised by any resolution of the company passed for the purposes of this Part.

(4) An order under this section is subject to affirmative resolution procedure.

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Modifications etc. (not altering text)

C518 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I178 S. 377 wholly in force at 1.11.2007; s. 377 not in force at Royal Assent, see s. 1300; s. 377 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 377 in force at 1.10.2007 (E.W.S.) and s. 377 in force at 1.11.2007 (N.I.) by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

378 Donations not amounting to more than £5,000 in any twelve month period

(1) Authorisation under this Part is not needed for a donation except to the extent that the total amount of—

(a) that donation, and

(b) other relevant donations made in the period of 12 months ending with the date on which that donation is made,

exceeds £5,000.

(2) In this section—

"donation" means a donation to a political party or other political organisation or to an independent election candidate; and

"other relevant donations" means—

(a) in relation to a donation made by a company that is not a subsidiary, any other donations made by that company or by any of its subsidiaries;

(b) in relation to a donation made by a company that is a subsidiary, any other donations made by that company, by any holding company of that company or by any other subsidiary of any such holding company.

(3) If or to the extent that a donation is exempt by virtue of this section from the requirement of authorisation under this Part, it shall be disregarded in determining what donations are authorised by any resolution passed for the purposes of this Part.

Modifications etc. (not altering text)

C519 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I179 S. 378 wholly in force at 1.10.2008; s. 378 not in force at Royal Assent see s. 1300; s. 378 in force for certain purposes at 1.10.2007 (E.W.S.), 1.11.2007 (N.I.) and otherwise in force at. 1.10.2008 by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, **5(1)(i)** (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

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Supplementary provisions

379 Minor definitions

(1) In this Part—

"director" includes shadow director; and

"organisation" includes any body corporate or unincorporated association and any combination of persons.

(2) Except as otherwise provided, any reference in this Part to the time at which a donation is made or expenditure is incurred is, in a case where the donation is made or expenditure incurred in pursuance of a contract, any earlier time at which that contract is entered into by the company.

Modifications etc. (not altering text)

C520 Ss. 362-379 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 9** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I180 S. 379 wholly in force at 1.11.2007; s. 379 not in force at Royal Assent see s. 1300; s. 379 in force at 1.10.2007 (E. W. S.) and s. 379 in force at 1.11.2007 (N.I.) by S.I. 2007/2194, **arts. 2(2)**, **3(1)**, (with saving in art. 12 and with transitional provisions and savings in Sch. 3)

PART 15

ACCOUNTS AND REPORTS

Modifications etc. (not altering text)

C521 Pt. 15 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **162**, 163 (with reg. 189)

C522 Pt. 15 applied (with modifications) (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), reg. 4, **Sch. para. 1** (with Sch. para. 11)

C523 Pt. 15 applied (with modifications) (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **regs. 4**, 7, Sch. Pt. 1

C524 Pt. 15 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 16** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C525 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

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CHAPTER 1

INTRODUCTION

General

380 Scheme of this Part

(1) The requirements of this Part as to accounts and reports apply in relation to each financial year of a company.

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

F169(3) . . . . . .

F169(4) . . . . . .

Textual Amendments

F169 S. 380(3)(4) omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **4(2)** (with reg. 3)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C527 S. 380 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 4** (as amended (with effect in accordance with reg. 2(2)-(7) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **4** and (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **9**)

Companies subject to the small companies regime

381 Companies subject to the small companies regime

The small companies regime F170. . . applies to a company for a financial year in relation to which the company—

(a) qualifies as small (see sections 382 and 383), and

(b) is not excluded from the regime (see section 384).

Textual Amendments

F170 Words in s. 381 omitted (6.4.2008) by virtue of The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (S.I. 2008/393), **reg. 6(1)**

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Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C528 Ss. 381-384 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 5 (as amended: (with effect in accordance with reg. 1(2) of the amending S.I.) by S.I. 2013/2005, regs. 1(1), 3(2) (with reg. 1(5)(6)); (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by S.I. 2016/575, regs. 2(1), 5; as amended (1.10.2018) by S.I. 2018/1030, regs. 1(2), 31(2)); and as amended (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 1 para. 58(2)** (with reg. 1(3)-(8), Sch. 1 para. 65) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(c)); 2020 c. 1, Sch. 5 para. 1(1))

382 Companies qualifying as small: general

(1) A company qualifies as small in relation to its first financial year if the qualifying conditions are met in that year.

[[F171](1A) Subject to subsection (2), a company qualifies as small in relation to a subsequent financial year if the qualifying conditions are met in that year.**]**

[[F172](2) In relation to a subsequent financial year, where on its balance sheet date a company meets or ceases to meet the qualifying conditions, that affects its qualification as a small company only if it occurs in two consecutive financial years.**]**

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

1. Turnover	**[**[F173]Not more than £10.2 million**]**
2. Balance sheet total	**[**[F174]Not more than £5.1 million**]**
3. Number of employees	Not more than 50

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

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

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

(a) find for each month in the financial year the number of persons employed under contracts of service by the company in that month (whether throughout the month or not),

(b) add together the monthly totals, and

(c) divide by the number of months in the financial year.

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

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Textual Amendments

F171 S. 382(1A) inserted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **4(2)(a)** (with reg. 3)

F172 S. 382(2) substituted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **4(2)(b)** (with reg. 3)

F173 Words in s. 382(3) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **4(3)(a)** (with reg. 3)

F174 Words in s. 382(3) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **4(3)(b)** (with reg. 3)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C529 Ss. 381-384 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 5** (as amended (with effect in accordance with reg. 1(2) of the amending S.I.) by S.I. 2013/2005, regs. 1(1), **3(2)** (with reg. 1(5)(6)) and as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **5**)

383 Companies qualifying as small: parent companies

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

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

[[F175](2A) Subject to subsection (3), a group qualifies as small in relation to a subsequent financial year of the parent company if the qualifying conditions are met in that year.**]**

[[F176](3) In relation to a subsequent financial year of the parent company, where on the parent company's balance sheet date the group meets or ceases to meet the qualifying conditions, that affects the group's qualification as a small group only if it occurs in two consecutive financial years.**]**

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

1. Aggregate turnover	**[**[F177]Not more than £10.2 million net (or £12.2 million gross)**]**
2. Aggregate balance sheet total	**[**[F178]Not more than £5.1 million net (or £6.1 million gross)**]**
3. Aggregate number of employees	Not more than 50

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

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

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

(a) in the case of Companies Act accounts, in accordance with regulations under section 404,

(b) in the case of IAS accounts, in accordance with **[**F179UK-adopted international accounting standards**]**; and

"gross" means without those set-offs and other adjustments.

A company may satisfy any relevant requirement on the basis of either the net or the gross figure.

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

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

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

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

Textual Amendments

F175 S. 383(2A) inserted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **4(3)(a)** (with reg. 3)

F176 S. 383(3) substituted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **4(3)(b)** (with reg. 3)

F177 Words in s. 383(4) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **4(4)(a)** (with reg. 3)

F178 Words in s. 383(4) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **4(4)(b)** (with reg. 3)

F179 Words in s. 383(6) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 2** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C528 Ss. 381-384 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 5 (as

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amended: (with effect in accordance with reg. 1(2) of the amending S.I.) by S.I. 2013/2005, regs. 1(1), 3(2) (with reg. 1(5)(6)); (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by S.I. 2016/575, regs. 2(1), 5; as amended (1.10.2018) by S.I. 2018/1030, regs. 1(2), 31(2)); and as amended (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 1 para. 58(2)** (with reg. 1(3)-(8), Sch. 1 para. 65) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(c)); 2020 c. 1, Sch. 5 para. 1(1))

384 Companies excluded from the small companies regime

(1) The small companies regime does not apply to a company that [F180]... was at any time within the financial year to which the accounts relate—

(a) a public company,

(b) a company that—

(i) is an authorised insurance company, a banking company, an e-money issuer, **[**[F181]a MiFID investment firm**]** or a UCITS management company, **[**[F182]or**]**

(ii) carries on insurance market activity, or

[[F183](iii) is a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1), or**]**

(c) a member of an ineligible group.

(2) A group is ineligible if any of its members is—

[[F184](a) a traded company,**]**

(b) a body corporate (other than a company) whose shares are admitted to trading on a **[**[F185]UK regulated market**]**,

(c) a person (other than a small company) who has permission under **[**[F186]Part 4A**]** of the Financial Services and Markets Act 2000 (c. 8) to carry on a regulated activity,

[[F187](ca) an e-money issuer,**]**

(d) a small company that is an authorised insurance company, a banking company, [F188]... **[**[F189]a MiFID investment firm**]** or a UCITS management company, **[**[F190]or**]**

(e) a person who carries on insurance market activity **[**[F191]or**]**

[[F192](f) a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1).**]**

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

Textual Amendments

F180 Words in s. 384(1) omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **4(5)(a)** (with reg. 3)

F181 Words in s. 384(1)(b) substituted (1.11.2007) by The Markets in Financial Instruments Directive (Consequential Amendments) Regulations 2007 (S.I. 2007/2932), **reg. 3(2)(a)**

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F182 Word in s. 384(1)(b)(i) omitted (E.W.S.) (1.10.2018) by virtue of The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **30(2)(a)(i)**

F183 S. 384(1)(b)(iii) inserted (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **30(2)(a)(ii)**

F184 S. 384(2)(a) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **4(5)(b)** (with reg. 3)

F185 Words in s. 384(2)(b) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 2** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F186 Words in s. 384(2)(c) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 111** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

F187 S. 384(2)(c) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Companies and Partnerships (Accounts and Audit) Regulations 2013 (S.I. 2013/2005), regs. 1(1), **2(2)(a)** (with reg. 1(5)(6))

F188 Words in s. 384(2)(d) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Companies and Partnerships (Accounts and Audit) Regulations 2013 (S.I. 2013/2005), regs. 1(1), **2(2)(b)** (with reg. 1(5)(6))

F189 Words in s. 384(2)(d) substituted (1.11.2007) by The Markets in Financial Instruments Directive (Consequential Amendments) Regulations 2007 (S.I. 2007/2932), **reg. 3(2)(b)**

F190 Word in s. 384(2)(d) omitted (E.W.S.) (1.10.2018) by virtue of The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **30(2)(b)(i)**

F191 Word in s. 384(2)(e) inserted (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **30(2)(b)(ii)**

F192 S. 384(2)(f) inserted (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **30(2)(b)(iii)**

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C530 Ss. 381-384 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 5** (as amended: (with effect in accordance with reg. 1(2) of the amending S.I.) by S.I. 2013/2005, regs. 1(1), **3(2)** (with reg. 1(5)(6)); (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by S.I. 2016/575, regs. 2(1), **5**; (1.10.2018) by S.I. 2018/1030, regs. 1(2), **31(2)**; (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), Sch. 1 para. 58(2) (with reg. 1(3)-(8), **Sch. 1 para. 65**) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**); and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 12** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

[F193 384A Companies qualifying as micro-entities

(1) A company qualifies as a micro-entity in relation to its first financial year if the qualifying conditions are met in that year.

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(2) Subject to subsection (3), a company qualifies as a micro-entity in relation to a subsequent financial year if the qualifying conditions are met in that year.

(3) In relation to a subsequent financial year, where on its balance sheet date a company meets or ceases to meet the qualifying conditions, that affects its qualification as a micro-entity only if it occurs in two consecutive financial years.

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

1. Turnover	Not more than £632,000
2. Balance sheet total	Not more than £316,000
3. Number of employees	Not more than 10

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

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

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

(a) find for each month in the financial year the number of persons employed under contracts of service by the company in that month (whether throughout the month or not),

(b) add together the monthly totals, and

(c) divide by the number of months in the financial year.

(8) In the case of a company which is a parent company, the company qualifies as a micro-entity in relation to a financial year only if—

(a) the company qualifies as a micro-entity in relation to that year, as determined by subsections (1) to (7), and

(b) the group headed by the company qualifies as a small group, as determined by section 383(2) to (7).

Textual Amendments

F193 Ss. 384A , 384B inserted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **4(4)** (with reg. 3)

Modifications etc. (not altering text)

C531 S. 384A applied (with modifications) by S.I. 2008/1911, reg. 5A (as inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **6**)

384B Companies excluded from being treated as micro-entities

(1) The micro-entity provisions do not apply in relation to a company's accounts for a particular financial year if the company **F194**... at any time within that year—

(a) **[F195**was**]** a company excluded from the small companies regime by virtue of section 384,

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(b) **[**F196would have been**]** an investment undertaking as defined in Article 2(14) of Directive 2013/34/ EU of 26 June 2013 on the annual financial statements etc. of certain types of undertakings **[**F197were the United Kingdom a member State**]**,

(c) **[**F198would have been**]** a financial holding undertaking as defined in Article 2(15) of that Directive **[**F199were the United Kingdom a member State**]**,

[F200(d) a credit institution within the meaning given by Article 4(1)(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council, **[**F201which is a CRR firm within the meaning of Article 4(1)(2A) of that Regulation,**]]**

(e) **[**F202would have been**]** an insurance undertaking as defined in Article 2(1) of Council Directive 91/674/EEC of 19 December 1991 on the annual accounts of insurance undertakings **[**F203were the United Kingdom a member State**]**, or

(f) **[**F204was**]** a charity.

(2) The micro-entity provisions also do not apply in relation to a company's accounts for a financial year if —

(a) the company is a parent company which prepares group accounts for that year as permitted by section **[**F205399(4)**]**, or

(b) the company is not a parent company but its accounts are included in consolidated group accounts for that year.**]**

Textual Amendments

F193 Ss. 384A , 384B inserted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **4(4)** (with reg. 3)

F194 Word in s. 384B(1) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 3(a)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F195 Word in s. 384B(1)(a) inserted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 3(b)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F196 Words in s. 384B(1)(b) inserted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 3(c)(i)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F197 Words in s. 384B(1)(b) inserted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 3(c)(ii)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F198 Words in s. 384B(1)(c) inserted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 3(d)(i)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F199 Words in s. 384B(1)(c) inserted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 3(d)(ii)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F200 S. 384B(1)(d) substituted (6.2.2019) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), reg. 1(2)(a), **Sch. 1 para. 1**

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F201 Words in s. 384B(1)(d) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 3(e)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F202 Words in s. 384B(1)(e) inserted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 3(f)(i)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F203 Words in s. 384B(1)(e) inserted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 3(f)(ii)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F204 Word in s. 384B(1)(f) inserted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 3(g)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F205 Word in s. 384B(2)(a) substituted (with application in accordance with reg. 1(2) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Non-Financial Reporting) Regulations 2016 (S.I. 2016/1245), regs. 1(1), **3(1)**

Modifications etc. (not altering text)

C532 S. 384B amendment to earlier affecting legislation S.I. 2008/1911, reg. 5A (6.2.2019) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), reg. 1(2)(a), **Sch. 1 para. 3**

C533 S. 384B applied (with modifications) by S.I. 2008/1911, **reg. 5A** (as inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **6** (as amended (with effect in accordance with reg. 2(5)(b) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 2** (with reg. 2(6)(7)); and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 13** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**))

C534 S. 384B(1)(f) excluded (E.) (6.4.2019) by The Higher Education (Registration Fees) (England) Regulations 2019 (S.I. 2019/543), regs. 1(1), **4(4)**

Quoted and unquoted companies

385 Quoted and unquoted companies

(1) For the purposes of this Part a company is a quoted company in relation to a financial year if it is a quoted company immediately before the end of the accounting reference period by reference to which that financial year was determined.

(2) A "quoted company" means a company whose equity share capital—

(a) has been included in the official list in accordance with the provisions of Part 6 of the Financial Services and Markets Act 2000 (c. 8), or

(b) is officially listed in an EEA State, or

(c) is admitted to dealing on either the New York Stock Exchange or the exchange known as Nasdaq.

In paragraph (a) "the official list" has the meaning given by section 103(1) of the Financial Services and Markets Act 2000.

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(3) An "unquoted company" means a company that is not a quoted company.

(4) The Secretary of State may by regulations amend or replace the provisions of subsections (1) to (2) so as to limit or extend the application of some or all of the provisions of this Part that are expressed to apply to quoted companies.

(5) Regulations under this section extending the application of any such provision of this Part are subject to affirmative resolution procedure.

(6) Any other regulations under this section are subject to negative resolution procedure.

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C535 Ss. 380-416 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I181 S. 385 wholly in force at 6.4.2008; s. 385 not in force at Royal Assent, see s. 1300; s. 385 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 385 in force for certain purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(3)(b)** (with saving in art. 12); s. 385 in force in so far as not already in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with savings in arts. 7, 12, Sch. 4 paras. 6-8)

CHAPTER 2

ACCOUNTING RECORDS

Modifications etc. (not altering text)

C536 Pt. 15 Ch. 2 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

386 Duty to keep accounting records

(1) Every company must keep adequate accounting records.

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

(a) to show and explain the company's transactions,

(b) to disclose with reasonable accuracy, at any time, the financial position of the company at that time, and

(c) to enable the directors to ensure that any accounts required to be prepared comply with the requirements of this Act [F206]....

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

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(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, and

(b) a record of the assets and liabilities of the company.

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

(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 statement of stock as is mentioned in paragraph (a) has been or is to be prepared, and

(c) except in the case of goods sold by way of ordinary retail trade, statements of all goods sold and purchased, showing the goods and the buyers and sellers in sufficient detail to enable all these to be identified.

(5) A parent company that has a subsidiary undertaking in relation to which the above requirements do not apply must take reasonable steps to secure that the undertaking keeps such accounting records as to enable the directors of the parent company to ensure that any accounts required to be prepared under this Part comply with the requirements of this Act [F207]....

Textual Amendments

F206 Words in s. 386(2)(c) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 3** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F207 Words in s. 386(5) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 3** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C537 Ss. 386-389 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 6** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 16**)

C538 Ss. 380-416 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

387 Duty to keep accounting records: offence

(1) If a company fails to comply with any provision of section 386 (duty to keep accounting records), an offence is committed by every officer of the company who is in default.

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

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C539 Ss. 386-389 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 6** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 16**)

C540 Ss. 380-416 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

388 Where and for how long records to be kept

(1) A company's accounting records—

(a) must be kept at its registered office or such other place as the directors think fit, and

(b) must at all times be open to inspection by the company's officers.

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

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

(a) disclose with reasonable accuracy the financial position of the business in question at intervals of not more than six months, and

(b) enable the directors to ensure that the accounts required to be prepared under this Part comply with the requirements of this Act [F208]....

(4) Accounting records that a company is required by section 386 to keep must be preserved by it—

(a) in the case of a private company, for three years from the date on which they are made;

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(b) in the case of a public company, for six years from the date on which they are made.

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

Textual Amendments

F208 Words in s. 388(3)(b) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 4** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C541 Ss. 386-389 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 6** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 16**)

C542 Ss. 380-416 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C543 S. 388 modified (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **11(a)(vii)**

389 Where and for how long records to be kept: offences

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

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

(3) An officer of a company commits an offence if he—

(a) fails to take all reasonable steps for securing compliance by the company with subsection (4) of that section (period for which records to be preserved), or

(b) intentionally causes any default by the company under that subsection.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C544 Ss. 386-389 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 6** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 16**)

C545 Ss. 380-416 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

CHAPTER 3

A COMPANY'S FINANCIAL YEAR

390 A company's financial year

(1) A company's financial year is determined as follows.

(2) Its first financial year—

(a) begins with the first day of its first accounting reference period, and

(b) ends with the last day of that period or such other date, not more than seven days before or after the end of that period, as the directors may determine.

(3) Subsequent financial years—

(a) begin with the day immediately following the end of the company's previous financial year, and

(b) end with the last day of its next accounting reference period or such other date, not more than seven days before or after the end of that period, as the directors may determine.

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

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

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with

reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C546 Ss. 390-392 excluded (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), reg. 4, **Sch. para. 3**

C547 Ss. 390-392 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 7**

C548 Ss. 390-392 applied (with modifications) (1.10.2009) by The Overseas Companies regulations 2009 (S.I. 2009/1801), {reg. 37} (with Sch. 8)

C549 Ss. 390-392 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 52** (with Sch. 8)

C550 Ss. 380-416 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C551 S. 390 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

391 Accounting reference periods and accounting reference date

(1) A company's accounting reference periods are determined according to its accounting reference date in each calendar year.

(2) The accounting reference date of a company incorporated in Great Britain before 1st April 1996 is—

(a) the date specified by notice to the registrar in accordance with section 224(2) of the Companies Act 1985 (c. 6) (notice specifying accounting reference date given within nine months of incorporation), or

(b) failing such notice—

(i) in the case of a company incorporated before 1st April 1990, 31st March, and

(ii) in the case of a company incorporated on or after 1st April 1990, the last day of the month in which the anniversary of its incorporation falls.

(3) The accounting reference date of a company incorporated in Northern Ireland before 22nd August 1997 is—

(a) the date specified by notice to the registrar in accordance with article 232(2) of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)) (notice specifying accounting reference date given within nine months of incorporation), or

(b) failing such notice—

(i) in the case of a company incorporated before the coming into operation of Article 5 of the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5)), 31st March, and

(ii) in the case of a company incorporated after the coming into operation of that Article, the last day of the month in which the anniversary of its incorporation falls.

(4) The accounting reference date of a company incorporated—

(a) in Great Britain on or after 1st April 1996 and before the commencement of this Act,

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(b) in Northern Ireland on or after 22nd August 1997 and before the commencement of this Act, or

(c) after the commencement of this Act,

is the last day of the month in which the anniversary of its incorporation falls.

(5) A company's first accounting reference period is the period of more than six months, but not more than 18 months, beginning with the date of its incorporation and ending with its accounting reference date.

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

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

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C552 Ss. 390-392 excluded (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), reg. 4, **Sch. para. 3**

C553 Ss. 390-392 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 7**

C554 Ss. 390-392 applied (with modifications) (1.10.2009) by The Overseas Companies regulations 2009 (S.I. 2009/1801), {reg. 37} (with Sch. 8)

C555 Ss. 390-392 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 52** (with Sch. 8)

C556 Ss. 380-416 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C557 S. 391 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

392 Alteration of accounting reference date

(1) A company may by notice given to the registrar specify a new accounting reference date having effect in relation to—

(a) the company's current accounting reference period and subsequent periods, or

(b) the company's previous accounting reference period and subsequent periods.

A company's "previous accounting reference period" means the one immediately preceding its current accounting reference period.

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

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

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

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

This does not apply—

(a) to a notice given by a company that is a subsidiary undertaking or parent undertaking of another **[**F209UK**]** undertaking if the new accounting reference date coincides with that of the other **[**F209UK**]** undertaking or, where that undertaking is not a company, with the last day of its financial year, or

(b) where the company is in administration under Part 2 of the Insolvency Act 1986 (c. 45) or Part 3 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or

(c) where the Secretary of State directs that it should not apply, which he may do with respect to a notice that has been given or that may be given.

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

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

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

(6) In this section "**[**F210UK undertaking**]**" means an undertaking established under the law of any part of the United Kingdom F211....

Textual Amendments

F209 Word in s. 392(3)(a) substituted (31.12.2020) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), reg. 1(2)(c), **Sch. 2 para. 4(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F210 Words in s. 392(6) substituted (31.12.2020) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), reg. 1(2)(c), **Sch. 2 para. 4(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F211 Words in s. 392(6) omitted (31.12.2020) by virtue of The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), reg. 1(2)(c), **Sch. 2 para. 4(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C558 Ss. 390-392 excluded (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), reg. 4, **Sch. para. 3**

C559 Ss. 390-392 applied (with modifications) (1.10.2009) by The Overseas Companies regulations 2009 (S.I. 2009/1801), {reg. 37} (with Sch. 8)

C560 Ss. 390-392 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 52** (with Sch. 8)

C561 Ss. 380-416 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

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C562 Ss. 390-392 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 7** (as amended (31.12.2020) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), reg. 1(2)(c), **Sch. 3 para. 14**; 2020 c. 1, Sch. 5 para. 1(1))

CHAPTER 4

ANNUAL ACCOUNTS

Modifications etc. (not altering text)

C563 Pt. 15 Ch. 4 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 3**

C564 Pt. 15 Ch. 4 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

C565 Pt. 15 Ch. 4 applied (with modifications) by S.I. 2008/565, reg. 3 (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 3** (with reg. 2(6)(7)))

C566 Pt. 16 Ch. 1 applied (with modifications) (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **9(4)-(8)**

General

393 Accounts to give true and fair view

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

(a) in the case of the company's individual accounts, of the company;

(b) in the case of the company's group accounts, of the undertakings included in the consolidation as a whole, so far as concerns members of the company.

(2) The auditor of a company in carrying out his functions under this Act in relation to the company's annual accounts must have regard to the directors' duty under subsection (1).

[[F212](1A) The following provisions apply to the directors of a company which qualifies as a micro-entity in relation to a financial year (see sections 384A and 384B) in their consideration of whether the Companies Act individual accounts of the company for that year give a true and fair view as required by subsection (1)(a)—

(a) where the accounts comprise only micro-entity minimum accounting items, the directors must disregard any provision of an accounting standard which would require the accounts to contain information additional to those items,

(b) in relation to a micro-entity minimum accounting item contained in the accounts, the directors must disregard any provision of an accounting standard which would require the accounts to contain further information in relation to that item, and

(c) where the accounts contain an item of information additional to the micro-entity minimum accounting items, the directors must have regard to any provision of an accounting standard which relates to that item.**]**

Status: *Point in time view as at 31/12/2020.*
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Textual Amendments

F212 S. 393(1A) inserted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **5(2)** (with reg. 3)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C567 S. 393 applied (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 3(2)(a)(i)**

C568 S. 393 applied (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 3(2)(b)**

C569 S. 393 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 8** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **7**)

Individual accounts

394 Duty to prepare individual accounts

The directors of every company must prepare accounts for the company for each of its financial years **[**[F213]unless the company is exempt from that requirement under section 394A**]**.

Those accounts are referred to as the company's "individual accounts".

Textual Amendments

F213 Words in s. 394 inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **8**

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C570 Ss. 394-397 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 38** (with Sch. 8) (as amended (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **32(2)**)

C571 Ss. 394-397 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 53** (with Sch. 8)

C572 Ss. 394-397 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 9** (as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **20(5)(a)**; (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016

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(S.I. 2016/575), regs. 2(1), **8**); (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 1 para. 58(3)** (with reg. 1(3)-(8), Sch. 1 para. 65) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 15(a)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**))

[F214 394A Individual accounts: exemption for dormant subsidiaries

(1) A company is exempt from the requirement to prepare individual accounts for a financial year if—

(a) it is itself a subsidiary undertaking,

(b) it has been dormant throughout the whole of that year, and

(c) its parent undertaking is established under the law of **[**F215any part of the United Kingdom**]**.

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

(a) all members of the company must agree to the exemption in respect of the financial year in question,

(b) the parent undertaking must give a guarantee under section 394C in respect of that year,

(c) the company must be included in the consolidated accounts drawn up for that year or to an earlier date in that year by the parent undertaking in accordance with—

[F216(i) if the undertaking is a company, the requirements of this Part of this Act, or, if the undertaking is not a company, the legal requirements which apply to the drawing up of consolidated accounts for that undertaking, or**]**

(ii) **[**F217UK-adopted international accounting standards**]**,

(d) the parent undertaking must disclose in the notes to the consolidated accounts that the company is exempt from the requirement to prepare individual accounts by virtue of this section, and

(e) the directors of the company must deliver to the registrar within the period for filing the company's accounts and reports for that year—

(i) a written notice of the agreement referred to in subsection (2)(a),

(ii) the statement referred to in section 394C(1),

(iii) a copy of the consolidated accounts referred to in subsection (2)(c),

(iv) a copy of the auditor's report on those accounts, and

(v) a copy of the consolidated annual report drawn up by the parent undertaking.

Textual Amendments

F214 Ss. 394A-394C inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **9**

F215 Words in s. 394A(1)(c) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 5(a)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F216 S. 394A(2)(c)(i) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 5(b)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F217 Words in s. 394A(2)(c)(ii) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 5** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C570 Ss. 394-397 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 38** (with Sch. 8) (as amended (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **32(2)**)

C572 Ss. 394-397 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 9** (as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **20(5)(a)**; (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **8**); (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 1 para. 58(3)** (with reg. 1(3)-(8), Sch. 1 para. 65) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 15(a)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**))

394B Companies excluded from the dormant subsidiaries exemption

A company is not entitled to the exemption conferred by section 394A (dormant subsidiaries) if it was at any time within the financial year in question—

[[F218](a) a traded company,**]**

(b) a company that—

(i) is an authorised insurance company, a banking company, an e-money issuer, a MiFID investment firm or a UCITS management company, or

(ii) carries on insurance market activity, or

(c) a special register body as defined in section 117(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (c 52) or an employers' association as defined in section 122 of that Act or Article 4 of the Industrial Relations (Northern Ireland) Order 1992 (S.I. 1992/807) (NI 5).

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F214 Ss. 394A-394C inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **9**

F218 S. 394B(a) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(3)** (with reg. 3)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C570 Ss. 394-397 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 38** (with Sch. 8) (as amended (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **32(2)**)

C572 Ss. 394-397 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 9** (as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **20(5)(a)**; (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **8**); (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 1 para. 58(3)** (with reg. 1(3)-(8), Sch. 1 para. 65) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 15(a)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**))

394C Dormant subsidiaries exemption: parent undertaking declaration of guarantee

(1) A guarantee is given by a parent undertaking under this section when the directors of the subsidiary company deliver to the registrar a statement by the parent undertaking that it guarantees the subsidiary company under this section.

(2) The statement under subsection (1) must be authenticated by the parent undertaking and must specify—

(a) the name of the parent undertaking,

[F219(b) the registered number (if any) of the parent undertaking,]

F220(c) . . . . . .

(d) the name and registered number of the subsidiary company in respect of which the guarantee is being given,

(e) the date of the statement, and

(f) the financial year to which the guarantee relates.

(3) A guarantee given under this section has the effect that—

(a) the parent undertaking guarantees all outstanding liabilities to which the subsidiary company is subject at the end of the financial year to which the guarantee relates, until they are satisfied in full, and

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(b) the guarantee is enforceable against the parent undertaking by any person to whom the subsidiary company is liable in respect of those liabilities.**]**

Textual Amendments

F214 Ss. 394A-394C inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **9**

F219 S. 394C(2)(b) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by S.I. 2019/145, regs. 1(2)(b), 2, **Sch. 2 para. 6(a)** (as substituted by The Statutory Auditors, Third Country Auditors and International Accounting Standards (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1392), regs. 1(2), **10(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**

F220 S. 394C(2)(c) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 6(b)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C570 Ss. 394-397 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 38** (with Sch. 8) (as amended (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **32(2)**)

C572 Ss. 394-397 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 9** (as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **20(5)(a)**; (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **8**); (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 1 para. 58(3)** (with reg. 1(3)-(8), Sch. 1 para. 65) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 15(a)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**))

395 Individual accounts: applicable accounting framework

(1) A company's individual accounts may be prepared—

(a) in accordance with section 396 ("Companies Act individual accounts"), or

(b) in accordance with **[**[F221]UK-adopted international accounting standards**]** ("IAS individual accounts").

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

(2) The individual accounts of a company that is a charity must be Companies Act individual accounts.

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(3) After the first financial year in which the directors of a company prepare IAS individual accounts ("the first IAS year"), all subsequent individual accounts of the company must be prepared in accordance with **[**F222UK-adopted international accounting standards**]** unless there is a relevant change of circumstance. **[**F223This is subject to subsection (4A).**]**

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

(a) the company becomes a subsidiary undertaking of another undertaking that does not prepare IAS individual accounts,

[F224(aa) the company ceases to be a subsidiary undertaking,**]**

(b) the company ceases to be a company with securities admitted to trading on a **[**F225UK regulated market**]**, or

(c) a parent undertaking of the company ceases to be an undertaking with securities admitted to trading on a **[**F226UK regulated market**]**.

[F227(4A) After a financial year in which the directors of a company prepare IAS individual accounts for the company, the directors may change to preparing Companies Act individual accounts for a reason other than a relevant change of circumstance provided they have not changed to Companies Act individual accounts in the period of five years preceding the first day of that financial year.

(4B) In calculating the five year period for the purpose of subsection (4A), no account should be taken of a change due to a relevant change of circumstance.**]**

(5) If, having changed to preparing Companies Act individual accounts F228. . . , the directors again prepare IAS individual accounts for the company, subsections (3) and (4) apply again as if the first financial year for which such accounts are again prepared were the first IAS year.

Textual Amendments

F221 Words in s. 395(1)(b) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 6** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F222 Words in s. 395(3) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 6** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F223 Words in s. 395(3) inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **12**

F224 S. 395(4)(aa) inserted (6.4.2008) by virtue of The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (S.I. 2008/393), **reg. 9**

F225 Words in s. 395(4)(b) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 7(a)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F226 Words in s. 395(4)(c) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I.

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2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 7(b)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F227 S. 395(4A)(4B) inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **13**

F228 Words in s. 395(5) omitted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by virtue of The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **14**

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C570 Ss. 394-397 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 38** (with Sch. 8) (as amended (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **32(2)**)

C572 Ss. 394-397 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 9** (as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **20(5)(a)**; (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **8**); (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 1 para. 58(3)** (with reg. 1(3)-(8), Sch. 1 para. 65) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 15(a)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**))

396 Companies Act individual accounts

[[F229](A1) Companies Act individual accounts must state—

(a) the part of the United Kingdom in which the company is registered,

(b) the company's registered number,

(c) whether the company is a public or a private company and whether it is limited by shares or by guarantee,

(d) the address of the company's registered office, and

(e) where appropriate, the fact that the company is being wound-up.**]**

(1) Companies Act individual accounts must comprise—

(a) a balance sheet as at the last day of the financial year, and

(b) a profit and loss account.

(2) The accounts must—

(a) in the case of the balance sheet, give a true and fair view of the state of affairs of the company as at the end of the financial year, and

(b) in the case of the profit and loss account, give a true and fair view of the profit or loss of the company for the financial year.

[[F230](2A) In the case of the individual accounts of a company which qualifies as a micro-entity in relation to the financial year (see sections 384A and 384B), the micro-entity minimum

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accounting items included in the company's accounts for the year are presumed to give the true and fair view required by subsection (2).**]**

(3) The accounts must comply with provision made by the Secretary of State by regulations as to—

(a) the form and content of the balance sheet and profit and loss account, and

(b) additional information to be provided by way of notes to the accounts.

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

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

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

[F231(6) Subsections (4) and (5) do not apply in relation to the micro-entity minimum accounting items included in the individual accounts of a company for a financial year in relation to which the company qualifies as a micro-entity.**]**

Textual Amendments

F229 S. 396(A1) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(4)** (with reg. 3)

F230 S. 396(2A) inserted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **5(3)(a)** (with reg. 3)

F231 S. 396(6) inserted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **5(3)(b)** (with reg. 3)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C570 Ss. 394-397 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 38** (with Sch. 8) (as amended (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **32(2)**)

C572 Ss. 394-397 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 9** (as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **20(5)(a)**; (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **8**); (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 1 para. 58(3)** (with reg. 1(3)-(8), Sch. 1 para. 65) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports

(Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 15(a)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**))

C573 Ss. 394-397 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 53** (with Sch. 8)

C574 S. 396(2) applied (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 3(2)(a)(ii)**

Commencement Information

I182 S. 396 wholly in force at 6.4.2008; s. 396 not in force at Royal Assent, see s. 1300; s. 396 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 396 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 6-8)

[F232 397. IAS individual accounts

(1) IAS individual accounts must state—

(a) the part of the United Kingdom in which the company is registered,

(b) the company's registered number,

(c) whether the company is a public or a private company and whether it is limited by shares or by guarantee,

(d) the address of the company's registered office, and

(e) where appropriate, the fact that the company is being wound-up.

(2) The notes to the accounts must state that the accounts have been prepared in accordance with **[**F233 UK-adopted international accounting standards**].]**

Textual Amendments

F232 S. 397 substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(5)** (with reg. 3)

F233 Words in s. 397(2) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 7** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C570 Ss. 394-397 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 38** (with Sch. 8) (as amended (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **32(2)**)

C572 Ss. 394-397 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 9** (as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **20(5)(a)**; (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **8**); (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 1 para. 58(3)** (with reg. 1(3)-(8), Sch. 1 para. 65) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports

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(Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 15(a)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**))

F234 ...

Textual Amendments

F234 S. 398 cross-heading omitted (with application in accordance with reg. 1(2) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Non-Financial Reporting) Regulations 2016 (S.I. 2016/1245), regs. 1(1), **3(2)(b)**

F235 398 Option to prepare group accounts

. . . . . .

Textual Amendments

F235 S. 398 omitted (with application in accordance with reg. 1(2) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Non-Financial Reporting) Regulations 2016 (S.I. 2016/1245), regs. 1(1), **3(2)(a)**

F236 Group accounts ...

Textual Amendments

F236 Words in s. 399 cross-heading omitted (with application in accordance with reg. 1(2) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Non-Financial Reporting) Regulations 2016 (S.I. 2016/1245), regs. 1(1), **3(3)**

399 Duty to prepare group accounts

F237(1) . . . . . .

(2) If at the end of a financial year **[**F238a company**]** is a parent company the directors, as well as preparing individual accounts for the year, must prepare group accounts for the year unless the company is exempt from that requirement.

[F239(2A) A company is exempt from the requirement to prepare group accounts if—

(a) at the end of the financial year, the company—

(i) is subject to the small companies regime, or

(ii) would be subject to the small companies regime but for being a public company, and

(b) is not a member of a group which, at any time during the financial year, has an undertaking falling within subsection (2B) as a member.

(2B) An undertaking falls within this subsection if—

(a) it is established under the law of **[**F240any part of the United Kingdom**]**,

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(b) it has to prepare accounts in accordance with **[**F241the requirements of this Part of this Act, and**]**

[F242(c) it—

(i) is an undertaking whose transferable securities are admitted to trading on a UK regulated market,

(ii) is a credit institution within the meaning given by Article 4(1)(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council, which is a CRR firm within the meaning of Article 4(1)(2A) of that Regulation, or

(iii) would be an insurance undertaking within the meaning given by Article 2(1) of Council Directive 91/674/EEC of the European Parliament and of the Council on the annual accounts of insurance undertakings were the United Kingdom a member State.**]**

(3) There are **[**F243further**]** exemptions under–

section 400 (company included in **[**F244UK**]** accounts of larger group),

section 401 (company included in **[**F245non-UK**]** accounts of larger group), and

section 402 (company none of whose subsidiary undertakings need be included in the consolidation).

(4) A company F246... which is exempt from the requirement to prepare group accounts, may do so.**]**

Textual Amendments

F237 S. 399(1) omitted (with application in accordance with reg. 1(2) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Non-Financial Reporting) Regulations 2016 (S.I. 2016/1245), regs. 1(1), **3(4)(a)**

F238 Words in s. 399(2) substituted (with application in accordance with reg. 1(2) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Non-Financial Reporting) Regulations 2016 (S.I. 2016/1245), regs. 1(1), **3(4)(b)**

F239 S. 399(2A)(2B) substituted for s. 399(2A) (with application in accordance with reg. 1(2) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Non-Financial Reporting) Regulations 2016 (S.I. 2016/1245), regs. 1(1), **3(4)(c)**

F240 Words in s. 399(2B)(a) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 8(a)(i)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F241 Words in s. 399(2B)(b) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 8(a)(ii)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F242 S. 399(2B)(c) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 8(a)(iii)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F243 Word in s. 399(3) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(6)(b)** (with reg. 3)

F244 Word in s. 399(3) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I.

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2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 8(b)(i)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F245 Word in s. 399(3) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 8(b)(ii)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F246 Words in s. 399(4) omitted (with application in accordance with reg. 1(2) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Non-Financial Reporting) Regulations 2016 (S.I. 2016/1245), regs. 1(1), **3(4)(d)**

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C575 S. 399 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 38** (with Sch. 8)

C576 S. 399 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 53** (with Sch. 8)

C577 Ss. 398-408 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 10** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **9**); (with effect in accordance with reg. 2(5)(b) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 3** (with reg. 2(6)(7)); (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), Sch. 1 para. 58(4) (with reg. 1(3)-(8), **Sch. 1 para. 65**) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 16** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

400 Exemption for company included in [F247UK] group accounts of larger group

(1) A company is exempt from the requirement to prepare group accounts if it is itself a subsidiary undertaking and its immediate parent undertaking is established under the law of **[**F248any part of the United Kingdom**]**, in the following cases—

(a) where the company is a wholly-owned subsidiary of that parent undertaking;

[F249(b) where that parent undertaking holds 90% or more of the allotted shares in the company and the remaining shareholders have approved the exemption;

(c) where that parent undertaking holds more than 50% (but less than 90%) of the allotted shares in the company and notice requesting the preparation of group accounts has not been served on the company by the shareholders holding in aggregate at least 5% of the allotted shares in the company.

Such notice must be served at least six months before the end of the financial year to which it relates.**]**

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

(a) the company must be included in consolidated accounts for a larger group drawn up to the same date, or to an earlier date in the same financial year, by

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a parent undertaking established under the law of **[**F250any part of the United Kingdom**]**;

(b) those accounts must be drawn up and audited, and that parent undertaking's annual report must be drawn up F251...—

[F252(i) if the undertaking is a company, in accordance with the requirements of this Part of this Act, or, if the undertaking is not a company, the legal requirements which apply to the drawing up of consolidated accounts for that undertaking, or**]**

(ii) in accordance with **[**F253UK-adopted international accounting standards**]**;

(c) the company must disclose in **[**F254the notes to**]** its individual accounts that it is exempt from the obligation to prepare and deliver group accounts;

(d) the company must state in its individual accounts the name of the parent undertaking that draws up the group accounts referred to above and—

[F255(i) the address of the undertaking's registered office F256..., or**]**

(ii) if it is unincorporated, the address of its principal place of business;

(e) the company must deliver to the registrar, within the period for filing its accounts and reports for the financial year in question, copies of—

(i) those group accounts, and

(ii) the parent undertaking's annual report,

together with the auditor's report on them;

(f) any requirement of Part 35 of this Act as to the delivery to the registrar of a certified translation into English must be met in relation to any document comprised in the accounts and reports delivered in accordance with paragraph (e).

(3) For the purposes of subsection (1)(b) **[**F257and (c)**]** shares held by a wholly-owned subsidiary of the parent undertaking, or held on behalf of the parent undertaking or a wholly-owned subsidiary, shall be attributed to the parent undertaking.

(4) The exemption does not apply to a company **[**F258which is a traded company.**]**

(5) Shares held by directors of a company for the purpose of complying with any share qualification requirement shall be disregarded in determining for the purposes of this section whether the company is a wholly-owned subsidiary.

F259(6) . . . . . .

Textual Amendments

F247 Word in s. 400 heading substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 9(a)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F248 Words in s. 400(1) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 9(b)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F249 S. 400(1)(b)(c) substituted for s. 400(1)(b) (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(7)(a)** (with reg. 3)

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F250 Words in s. 400(2)(a) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 9(c)(i)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F251 Words in s. 400(2)(b) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 9(c)(ii)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F252 S. 400(2)(b)(i) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 9(c)(iii)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F253 Words in s. 400(2)(b)(ii) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 8** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F254 Words in s. 400(2)(c) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(7)(b)(ii)** (with reg. 3)

F255 S. 400(2)(d)(i) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(7)(b)(iii)** (with reg. 3)

F256 Words in s. 400(2)(d)(i) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 9(c)(iv)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F257 Words in s. 400(3) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(7)(c)** (with reg. 3)

F258 Words in s. 400(4) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(7)(d)** (with reg. 3)

F259 S. 400(6) omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(7)(e)** (with reg. 3)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C577 Ss. 398-408 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 10** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **9**); (with effect in accordance with reg. 2(5)(b) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 3** (with reg. 2(6)(7)); (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), Sch. 1 para. 58(4) (with reg. 1(3)-(8), **Sch. 1 para. 65**) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit)

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Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 16** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

401 Exemption for company included in [F260non-UK] group accounts of larger group

(1) A company is exempt from the requirement to prepare group accounts if it is itself a subsidiary undertaking and its parent undertaking is not established under the law of **[**F261any part of the United Kingdom**]**, in the following cases—

(a) where the company is a wholly-owned subsidiary of that parent undertaking;

[F262(b) where that parent undertaking holds 90% or more of the allotted shares in the company and the remaining shareholders have approved the exemption; or

(c) where that parent undertaking holds more than 50% (but less than 90%) of the allotted shares in the company and notice requesting the preparation of group accounts has not been served on the company by the shareholders holding in aggregate at least 5% of the allotted shares in the company.

Such notice must be served at least six months before the end of the financial year to which it relates.**]**

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

(a) the company and all of its subsidiary undertakings must be included in consolidated accounts for a larger group drawn up to the same date, or to an earlier date in the same financial year, by a parent undertaking;

[F263(b) those accounts and, where appropriate, the group's annual report, must be drawn up—

F264(i) . . . . . .

(ii) in a manner equivalent to consolidated accounts and consolidated reports **[**F265drawn up in accordance with the requirements of this Part of this Act**]**,

(iii) in accordance with **[**F266UK-adopted international accounting standards**]**, or

(iv) in accordance with accounting standards which are equivalent to such international accounting standards, as determined pursuant to Commission Regulation (EC) No. 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/ EC and 2004/109/ EC of the European Parliament and of the Council; **]**

(c) the group accounts must be audited by one or more persons authorised to audit accounts under the law under which the parent undertaking which draws them up is established;

(d) the company must disclose in its individual accounts that it is exempt from the obligation to prepare and deliver group accounts;

(e) the company must state in its individual accounts the name of the parent undertaking which draws up the group accounts referred to above and—

[F267(i) the address of the undertaking's registered office (whether in or outside the United Kingdom), or;**]**

(ii) if it is unincorporated, the address of its principal place of business;

(f) the company must deliver to the registrar, within the period for filing its accounts and reports for the financial year in question, copies of—

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(i) the group accounts, and

(ii) where appropriate, the consolidated annual report,

together with the auditor's report on them;

(g) any requirement of Part 35 of this Act as to the delivery to the registrar of a certified translation into English must be met in relation to any document comprised in the accounts and reports delivered in accordance with paragraph (f).

(3) For the purposes of subsection (1)(b) **[**[F268]and (c)**]**, shares held by a wholly-owned subsidiary of the parent undertaking, or held on behalf of the parent undertaking or a wholly-owned subsidiary, are attributed to the parent undertaking.

(4) The exemption does not apply to a company **[**[F269]which is a traded company**]**.

(5) Shares held by directors of a company for the purpose of complying with any share qualification requirement shall be disregarded in determining for the purposes of this section whether the company is a wholly-owned subsidiary.

[F270](6) . . . . . .

Textual Amendments

F260 Word in s. 401 heading substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 10(a)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F261 Words in s. 401(1) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 10(b)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F262 S. 401(1)(b)(c) substituted for s. 401(1)(b) (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(8)(a)** (with reg. 3)

F263 S. 401(2)(b) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(8)(b)** (with reg. 3)

F264 S. 401(2)(b)(i) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 10(c)(i)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F265 Words in s. 401(2)(b)(ii) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 10(c)(ii)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F266 Words in s. 401(2)(b)(iii) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 9** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F267 S. 401(2)(e)(i) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(8)(c)** (with reg. 3)

F268 Words in s. 401(3) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(8)(d)** (with reg. 3)

F269 Words in s. 401(4) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(8)(e)** (with reg. 3)

F270 S. 401(6) omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(8)(f)** (with reg. 3)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C577 Ss. 398-408 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 10** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **9**); (with effect in accordance with reg. 2(5)(b) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 3** (with reg. 2(6)(7)); (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), Sch. 1 para. 58(4) (with reg. 1(3)-(8), **Sch. 1 para. 65**) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 16** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

402 Exemption if no subsidiary undertakings need be included in the consolidation

A parent company is exempt from the requirement to prepare group accounts if under section 405 all of its subsidiary undertakings could be excluded from consolidation in Companies Act group accounts.

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C577 Ss. 398-408 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 10** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **9**); (with effect in accordance with reg. 2(5)(b) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 3** (with reg. 2(6)(7)); (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), Sch. 1 para. 58(4) (with reg. 1(3)-(8), **Sch. 1 para. 65**) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit)

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Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 16** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

C578 Ss. 402-406 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 38** (with Sch. 8)

C579 Ss. 402-406 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 53** (with Sch. 8)

Group accounts: general

403 Group accounts: applicable accounting framework

[F271(1) The group accounts of a parent company whose securities are, on its balance sheet date, admitted to trading on a UK regulated market must be prepared in accordance with UK-adopted international accounting standards ("IAS group accounts").**]**

(2) The group accounts of other companies may be prepared—

(a) in accordance with section 404 ("Companies Act group accounts"), or

(b) in accordance with **[**F272UK-adopted international accounting standards**]** ("IAS group accounts").

This is subject to the following provisions of this section.

(3) The group accounts of a parent company that is a charity must be Companies Act group accounts.

(4) After the first financial year in which the directors of a parent company prepare IAS group accounts ("the first IAS year"), all subsequent group accounts of the company must be prepared in accordance with **[**F273UK-adopted international accounting standards**]** unless there is a relevant change of circumstance. **[**F274This is subject to subsection (5A).**]**

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

(a) the company becomes a subsidiary undertaking of another undertaking that does not prepare IAS group accounts,

(b) the company ceases to be a company with securities admitted to trading on a **[**F275UK regulated market**]**, or

(c) a parent undertaking of the company ceases to be an undertaking with securities admitted to trading on a **[**F276UK regulated market**]**.

[F277(5A) After a financial year in which the directors of a parent company prepare IAS group accounts for the company, the directors may change to preparing Companies Act group accounts for a reason other than a relevant change of circumstance provided they have not changed to Companies Act group accounts in the period of five years preceding the first day of that financial year.

(5B) In calculating the five year period for the purpose of subsection (5A), no account should be taken of a change due to a relevant change of circumstance.**]**

(6) If, having changed to preparing Companies Act group accounts F278. . . , the directors again prepare IAS group accounts for the company, subsections (4) and (5) apply again as if the first financial year for which such accounts are again prepared were the first IAS year.

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Textual Amendments

F271 S. 403(1) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 10(a)** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F272 Words in s. 403(2)(b) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 10(b)** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F273 Words in s. 403(4) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 10(b)** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F274 Words in s. 403(4) inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **15**

F275 Words in s. 403(5)(b) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 11(a)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F276 Words in s. 403(5)(c) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 11(b)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F277 S. 403(5A)(5B) inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **16**

F278 Words in s. 403(6) omitted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by virtue of The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **17**

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C577 Ss. 398-408 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 10** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **9**); (with effect in accordance with reg. 2(5)(b) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 3** (with reg. 2(6)(7)); (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), Sch. 1 para. 58(4) (with reg. 1(3)-(8), **Sch. 1 para. 65**) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit)

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Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 16** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

C580 Ss. 402-406 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 38** (with Sch. 8)

C581 Ss. 402-406 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 53** (with Sch. 8)

404 Companies Act group accounts

[[F279](A1) Companies Act group accounts must state, in respect of the parent company—

(a) the part of the United Kingdom in which the company is registered,

(b) the company's registered number,

(c) whether the company is a public or a private company and whether it is limited by shares or by guarantee,

(d) the address of the company's registered office, and

(e) where appropriate, the fact that the company is being wound-up.**]**

(1) Companies Act group accounts must comprise—

(a) a consolidated balance sheet dealing with the state of affairs of the parent company and its subsidiary undertakings, and

(b) a consolidated profit and loss account dealing with the profit or loss of the parent company and its subsidiary undertakings.

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

(3) The accounts must comply with provision made by the Secretary of State by regulations as to—

(a) the form and content of the consolidated balance sheet and consolidated profit and loss account, and

(b) additional information to be provided by way of notes to the accounts.

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

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

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

Textual Amendments

F279 S. 404(A1) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(9)** (with reg. 3)

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Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C577 Ss. 398-408 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 10** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **9**); (with effect in accordance with reg. 2(5)(b) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 3** (with reg. 2(6)(7)); (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), Sch. 1 para. 58(4) (with reg. 1(3)-(8), **Sch. 1 para. 65**) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 16** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

C582 S. 404(2) applied (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 3(2)(a)(iii)**

C583 Ss. 402-406 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 38** (with Sch. 8)

C584 Ss. 402-406 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 53** (with Sch. 8)

Commencement Information

I183 S. 404 wholly in force at 6.4.2008; s. 404 not in force at Royal Assent, see s. 1300; s. 404 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 404 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 6-8)

405 Companies Act group accounts: subsidiary undertakings included in the consolidation

(1) Where a parent company prepares Companies Act group accounts, all the subsidiary undertakings of the company must be included in the consolidation, subject to the following exceptions.

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

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

(a) severe long-term restrictions substantially hinder the exercise of the rights of the parent company over the assets or management of that undertaking, or

(b) **[**[F280]extremely rare circumstances mean that**]** the information necessary for the preparation of group accounts cannot be obtained without disproportionate expense or undue delay, or

(c) the interest of the parent company is held exclusively with a view to subsequent resale.

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

Textual Amendments

F280 Words in s. 405(3)(b) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(10)** (with reg. 3)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C577 Ss. 398-408 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 10** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **9**); (with effect in accordance with reg. 2(5)(b) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 3** (with reg. 2(6)(7)); (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), Sch. 1 para. 58(4) (with reg. 1(3)-(8), **Sch. 1 para. 65**) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 16** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

C585 Ss. 402-406 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 38** (with Sch. 8)

C586 Ss. 402-406 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 53** (with Sch. 8)

[F281 406 IAS group accounts

(1) IAS group accounts must state—

(a) the part of the United Kingdom in which the company is registered,

(b) the company's registered number,

(c) whether the company is a public or a private company and whether it is limited by shares or by guarantee,

(d) the address of the company's registered office, and

(e) where appropriate, the fact that the company is being wound-up.

(2) The notes to the accounts must state that the accounts have been prepared in accordance with **[**F282UK-adopted international accounting standards**].]**

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Textual Amendments

F281 S. 406 substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(11)** (with reg. 3)

F282 Words in s. 406(2) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 11** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C577 Ss. 398-408 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 10** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **9**); (with effect in accordance with reg. 2(5)(b) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 3** (with reg. 2(6)(7)); (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), Sch. 1 para. 58(4) (with reg. 1(3)-(8), **Sch. 1 para. 65**) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 16** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

C585 Ss. 402-406 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 38** (with Sch. 8)

C586 Ss. 402-406 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 53** (with Sch. 8)

407 Consistency of financial reporting within group

(1) The directors of a parent company must secure that the individual accounts of—

(a) the parent company, and

(b) each of its subsidiary undertakings,

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

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

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

(4) Subsection (1) does not require accounts of undertakings that are charities to be prepared using the same financial reporting framework as accounts of undertakings which are not charities.

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(5) Subsection (1)(a) does not apply where the directors of a parent company prepare IAS group accounts and IAS individual accounts.

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C577 Ss. 398-408 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 10** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **9**); (with effect in accordance with reg. 2(5)(b) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 3** (with reg. 2(6)(7)); (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), Sch. 1 para. 58(4) (with reg. 1(3)-(8), **Sch. 1 para. 65**) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 16** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

C585 Ss. 402-406 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 38** (with Sch. 8)

C586 Ss. 402-406 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 53** (with Sch. 8)

408 Individual profit and loss account where group accounts prepared

(1) This section applies where—

(a) a company prepares group accounts in accordance with this Act, and

[[F283](b) the company's individual balance sheet shows the company's profit and loss for the financial year determined in accordance with this Act.**]**

[F284](2) . . . . . .

(3) The company's individual profit and loss account must be approved in accordance with section 414(1) (approval by directors) but may be omitted from the company's annual accounts for the purposes of the other provisions of the Companies Acts.

(4) The exemption conferred by this section is conditional upon its being disclosed in the company's annual accounts that the exemption applies.

Textual Amendments

F283 S. 408(1)(b) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(12)(a)** (with reg. 3)

F284 S. 408(2) omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(12)(b)** (with reg. 3)

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Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C577 Ss. 398-408 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 10** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **9**); (with effect in accordance with reg. 2(5)(b) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 3** (with reg. 2(6)(7)); (31.12.2020 by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), Sch. 1 para. 58(4) (with reg. 1(3)-(8), **Sch. 1 para. 65**) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 16** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

C585 Ss. 402-406 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 38** (with Sch. 8)

C586 Ss. 402-406 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 53** (with Sch. 8)

Information to be given in notes to the accounts

409 Information about related undertakings

(1) The Secretary of State may make provision by regulations requiring information about related undertakings to be given in notes to a company's annual accounts.

(2) The regulations—

(a) may make different provision according to whether or not the company prepares group accounts, and

(b) may specify the descriptions of undertaking in relation to which they apply, and make different provision in relation to different descriptions of related undertaking.

(3) The regulations may provide that information need not be disclosed with respect to an undertaking that—

(a) is established under the law of a country outside the United Kingdom, or

(b) carries on business outside the United Kingdom,

if the following conditions are met.

(4) The conditions are—

(a) that in the opinion of the directors of the company the disclosure would be seriously prejudicial to the business of—

(i) that undertaking,

(ii) the company,

(iii) any of the company's subsidiary undertakings, or

(iv) any other undertaking which is included in the consolidation;

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(b) that the Secretary of State agrees that the information need not be disclosed.

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

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C587 Ss. 380-416 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C588 Ss. 409-411 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 11** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **10**)

Commencement Information

I184 S. 409 wholly in force at 6.4.2008; s. 409 not in force at Royal Assent, see s. 1300; s. 409 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 409 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 6-8)

F285 410 Information about related undertakings: alternative compliance

. . . . . .

Textual Amendments

F285 S. 410 omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(13)** (with reg. 3)

[F286 410A Information about off-balance sheet arrangements

[F287(1) If in any financial year—

(a) a company is or has been party to arrangements that are not reflected in its balance sheet, and

(b) at the balance sheet date the risks or benefits arising from those arrangements are material,

the information required by this section must be given in the notes to the company's annual accounts.]

(2) The information required is—

(a) the nature and business purpose of the arrangements, and

(b) the financial impact of the arrangements on the company.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The information need only be given to the extent necessary for enabling the financial position of the company to be assessed.

[[F288](4) If the company is subject to the small companies regime in relation to the financial year (see section 381), it need not comply with subsection (2)(b).**]**

(5) This section applies in relation to group accounts as if the undertakings included in the consolidation were a single company.**]**

Textual Amendments

F286 S. 410A inserted (6.4.2008) by The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (S.I. 2008/393), **reg. 8**

F287 S. 410A(1) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(14)(a)** (with reg. 3)

F288 S. 410A(4) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(14)(b)** (with reg. 3)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C589 Ss. 380-416 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C590 Ss. 409-411 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 11** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **10**)

411 Information about employee numbers and costs

[[F289](1) The notes to a company's annual accounts must disclose the average number of persons employed by the company in the financial year.

(1A) In the case of a company not subject to the small companies regime, the notes to the company's accounts must also disclose the average number of persons within each category of persons so employed.**]**

(2) The categories by reference to which the number required to be disclosed by **[**[F290]subsection (1A)**]** is to be determined must be such as the directors may select having regard to the manner in which the company's activities are organised.

(3) The average number required by **[**[F291]subsection (1) or (1A)**]** is determined by dividing the relevant annual number by the number of months in the financial year.

(4) The relevant annual number is determined by ascertaining for each month in the financial year—

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(a) for the purposes of **[**F292subsection (1)**]**, the number of persons employed under contracts of service by the company in that month (whether throughout the month or not);

(b) for the purposes of **[**F293subsection (1A)**]**, the number of persons in the category in question of persons so employed;

and adding together all the monthly numbers.

[F294(5) Except in the case of a company subject to the small companies regime, the notes to the company's annual accounts or the profit and loss account must disclose, with reference to all persons employed by the company during the financial year, the total staff costs of the company relating to the financial year broken down between—

(a) wages and salaries paid or payable in respect of that year to those persons,

(b) social security costs incurred by the company on their behalf, and

(c) other pension costs so incurred.**]**

(6) In subsection (5)—

"pension costs" includes any costs incurred by the company in respect of—

(a) any pension scheme established for the purpose of providing pensions for persons currently or formerly employed by the company,

(b) any sums set aside for the future payment of pensions directly by the company to current or former employees, and

(c) any pensions paid directly to such persons without having first been set aside;

"social security costs" means any contributions by the company to any state social security or pension scheme, fund or arrangement.

[F295(7) This section applies in relation to group accounts as if the undertakings included in the consolidation were a single company.**]**

Textual Amendments

F289 S. 411(1)(1A) substituted for s. 411(1) (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(15)(a)** (with reg. 3)

F290 Words in s. 411(2) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(15)(b)** (with reg. 3)

F291 Words in s. 411(3) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(15)(c)** (with reg. 3)

F292 Words in s. 411(4)(a) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(15)(d)(i)** (with reg. 3)

F293 Words in s. 411(4)(b) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(15)(d)(ii)** (with reg. 3)

F294 S. 411(5) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(15)(e)** (with reg. 3)

F295 S. 411(7) substituted (6.4.2008) by The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (S.I. 2008/393), **reg. 11**

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Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C591 Ss. 409-411 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 11** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **10**)

C592 Ss. 380-416 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

412 Information about directors' benefits: remuneration

(1) The Secretary of State may make provision by regulations requiring information to be given in notes to a company's annual accounts about directors' remuneration.

(2) The matters about which information may be required include—

(a) gains made by directors on the exercise of share options;

(b) benefits received or receivable by directors under long-term incentive schemes;

(c) payments for loss of office (as defined in section 215);

(d) benefits receivable, and contributions for the purpose of providing benefits, in respect of past services of a person as director or in any other capacity while director;

(e) consideration paid to or receivable by third parties for making available the services of a person as director or in any other capacity while director.

(3) Without prejudice to the generality of subsection (1), regulations under this section may make any such provision as was made immediately before the commencement of this Part by Part 1 of Schedule 6 to the Companies Act 1985 (c. 6).

(4) For the purposes of this section, and regulations made under it, amounts paid to or receivable by—

(a) a person connected with a director, or

(b) a body corporate controlled by a director,

are treated as paid to or receivable by the director.

The expressions "connected with" and "controlled by" in this subsection have the same meaning as in Part 10 (company directors).

(5) It is the duty of—

(a) any director of a company, and

(b) any person who is or has at any time in the preceding five years been a director of the company,

to give notice to the company of such matters relating to himself as may be necessary for the purposes of regulations under this section.

(6) A person who makes default in complying with subsection (5) commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C593 Ss. 380-416 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I185 S. 412 wholly in force at 6.4.2008; s. 412 not in force at Royal Assent, see s. 1300; s. 412 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 412 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 6-8)

413 Information about directors' benefits: advances, credit and guarantees

(1) In the case of a company that does not prepare group accounts, details of—

(a) advances and credits granted by the company to its directors, and

(b) guarantees of any kind entered into by the company on behalf of its directors,

must be shown in the notes to its individual accounts.

(2) In the case of a parent company that prepares group accounts, details of—

(a) advances and credits granted to the directors of the parent company, by that company or by any of its subsidiary undertakings, and

(b) guarantees of any kind entered into on behalf of the directors of the parent company, by that company or by any of its subsidiary undertakings,

must be shown in the notes to the group accounts.

(3) The details required of an advance or credit are—

(a) its amount,

(b) an indication of the interest rate,

(c) its main conditions, [F296]...

(d) any amounts repaid.

[F297](e) any amounts written off, and

(f) any amounts waived.]

(4) The details required of a guarantee are—

(a) its main terms,

(b) the amount of the maximum liability that may be incurred by the company (or its subsidiary), and

(c) any amount paid and any liability incurred by the company (or its subsidiary) for the purpose of fulfilling the guarantee (including any loss incurred by reason of enforcement of the guarantee).

(5) There must also be stated in the notes to the accounts the totals—

(a) of amounts stated under subsection (3)(a),

(b) of amounts stated under subsection (3)(d),

[F298](ba) of amounts stated under subsection 3(e),

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(bb) of amounts stated under subsection 3(f),**]**

(c) of amounts stated under subsection (4)(b), and

(d) of amounts stated under subsection (4)(c).

(6) References in this section to the directors of a company are to the persons who were **[**[F299]directors**]** at any time in the financial year to which the accounts relate.

(7) The requirements of this section apply in relation to every advance, credit or guarantee subsisting at any time in the financial year to which the accounts relate—

(a) whenever it was entered into,

(b) whether or not the person concerned was a director of the company in question at the time it was entered into, and

(c) in the case of an advance, credit or guarantee involving a subsidiary undertaking of that company, whether or not that undertaking was such a subsidiary undertaking at the time it was entered into.

(8) Banking companies and the holding companies of credit institutions need only state the details required by **[**[F300]subsection (5)(a) and (c)**]**.

Textual Amendments

F296 Word in s. 413(3)(c) omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(16)(a)(i)** (with reg. 3)

F297 S. 413(3)(e)(f) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(16)(a)(ii)** (with reg. 3)

F298 S. 413(5)(ba)(bb) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(16)(b)** (with reg. 3)

F299 Word in s. 413(6) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **5(16)(c)** (with reg. 3)

F300 Words in s. 413(8) substituted (23.12.2009) by The Companies Act 2006 (Amendment of Section 413) Regulations 2009 (S.I. 2009/3022), **reg. 2** (with application as mentioned in reg. 1(2))

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C594 Ss. 380-416 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Approval and signing of accounts

414 Approval and signing of accounts

(1) A company's annual accounts must be approved by the board of directors and signed on behalf of the board by a director of the company.

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

[F301(3) If the accounts are prepared in accordance with the small companies regime, the balance sheet must contain, in a prominent position above the signature—

(a) in the case of individual accounts prepared in accordance with the micro-entity provisions, a statement to that effect, or

(b) in the case of accounts not prepared as mentioned in paragraph (a), a statement to the effect that the accounts have been prepared in accordance with the provisions applicable to companies subject to the small companies regime.**]**

(4) If annual accounts are approved that do not comply with the requirements of this Act F302..., every director of the company who—

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

(b) failed to take reasonable steps to secure compliance with those requirements or, as the case may be, to prevent the accounts from being approved,

commits an offence.

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

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

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

Textual Amendments

F301 S. 414(3) substituted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **5(4)** (with reg. 3)

F302 Words in s. 414(4) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 12** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C526 Ss. 380-414 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, **Sch 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C595 S. 414 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 4**

C596 S. 414 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 39** (with Sch. 8)

C597 S. 414 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 54** (with Sch. 8)

C598 S. 414 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 12** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **11**)

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

[F303 CHAPTER 4A

STRATEGIC REPORT

Textual Amendments

F303 Pt. 15 Ch. 4A inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), regs. 1(2)(3),**3**

Modifications etc. (not altering text)

C599 Pt. 15 Ch. 4A applied in part (with modifications) by S.I. 2008/565, **reg. 3** (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 3** (with reg. 2(6)(7)))

414A Duty to prepare strategic report

(1) The directors of a company must prepare a strategic report for each financial year of the company.

(2) Subsection (1) does not apply if the company is entitled to the small companies exemption.

(3) For a financial year in which—

(a) the company is a parent company, and

(b) the directors of the company prepare group accounts,

the strategic report must be a consolidated report (a "group strategic report") relating to the undertakings included in the consolidation.

(4) A group strategic report may, where appropriate, give greater emphasis to the matters that are significant to the undertakings included in the consolidation, taken as a whole.

(5) In the case of failure to comply with the requirement to prepare a strategic report, an offence is committed by every person who—

(a) was a director of the company immediately before the end of the period for filing accounts and reports for the financial year in question, and

(b) failed to take all reasonable steps for securing compliance with that requirement.

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

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

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

Modifications etc. (not altering text)

C600 S. 414A applied (with modifications) by S.I. 2008/1911, reg. 12A (as inserted (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 4** (with reg. 2(6)(7)))

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

414B Strategic report: small companies exemption

A company is entitled to **[**[F304]the**]** small companies exemption in relation to the strategic report for a financial year if—

(a) it is entitled to prepare accounts for the year in accordance with the small companies regime, or

(b) it would be so entitled but for being or having been a member of an ineligible group.

Textual Amendments

F304 Word in s. 414B inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **6** (with reg. 3)

414C Contents of strategic report

(1) The purpose of the strategic report is to inform members of the company and help them assess how the directors have performed their duty under section 172 (duty to promote the success of the company).

(2) The strategic report must contain—

(a) a fair review of the company's business, and

(b) a description of the principal risks and uncertainties facing the company.

[[F305]Section 414CZA (section 172(1) statement) and sections 414CA and 414CB (non-financial information statement) make further provision about the contents of a strategic report.**]**

(3) The review required is a balanced and comprehensive analysis of—

(a) the development and performance of the company's business during the financial year, and

(b) the position of the company's business at the end of that year,

consistent with the size and complexity of the business.

(4) The review must, to the extent necessary for an understanding of the development, performance or position of the company's business, include—

(a) analysis using financial key performance indicators, and

(b) where appropriate, analysis using other key performance indicators, including information relating to environmental matters and employee matters.

(5) In subsection (4), "key performance indicators" means factors by reference to which the development, performance or position of the company's business can be measured effectively.

(6) Where a company qualifies as medium-sized in relation to a financial year (see sections 465 to 467), the review for the year need not comply with the requirements of subsection (4) so far as they relate to non-financial information.

(7) In the case of a quoted company the strategic report must, to the extent necessary for an understanding of the development, performance or position of the company's business, include—

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(a) the main trends and factors likely to affect the future development, performance and position of the company's business, and

(b) information about—

(i) environmental matters (including the impact of the company's business on the environment),

(ii) the company's employees, and

(iii) social, community and human rights issues,

including information about any policies of the company in relation to those matters and the effectiveness of those policies.

If the report does not contain information of each kind mentioned in paragraphs (b)(i), (ii) and (iii), it must state which of those kinds of information it does not contain.

(8) In the case of a quoted company the strategic report must include—

(a) a description of the company's strategy,

(b) a description of the company's business model,

(c) a breakdown showing at the end of the financial year—

(i) the number of persons of each sex who were directors of the company;

(ii) the number of persons of each sex who were senior managers of the company (other than persons falling within sub-paragraph (i)); and

(iii) the number of persons of each sex who were employees of the company.

(9) In subsection (8), "senior manager" means a person who—

(a) has responsibility for planning, directing or controlling the activities of the company, or a strategically significant part of the company, and

(b) is an employee of the company.

(10) In relation to a group strategic report—

(a) the reference to the company in subsection (8)(c)(i) is to the parent company; and

(b) the breakdown required by subsection (8)(c)(ii) must include the number of persons of each sex who were the directors of the undertakings included in the consolidation.

(11) The strategic report may also contain such of the matters otherwise required by regulations made under section 416(4) to be disclosed in the directors' report as the directors consider are of strategic importance to the company.

(12) The report must, where appropriate, include references to, and additional explanations of, amounts included in the company's annual accounts.

(13) Subject to paragraph (10), in relation to a group strategic report this section has effect as if the references to the company were references to the undertakings included in the consolidation.

(14) Nothing in this section requires the disclosure of information about impending developments or matters in the course of negotiation if the disclosure would, in the opinion of the directors, be seriously prejudicial to the interests of the company.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F305 Words in s. 414C(2) inserted (with application in accordance with reg. 1(4) of the amending S.I.) by The Companies (Miscellaneous Reporting) Regulations 2018 (S.I. 2018/860), regs. 1(1), **3**

Modifications etc. (not altering text)

C601 S. 414C applied (with modifications) by S.I. 2008/1911, reg. 12A (as inserted (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 4** (with reg. 2(6)(7)))

[F306 414CZA. Section 172(1) statement

(1) A strategic report for a financial year of a company must include a statement (a "section 172(1) statement") which describes how the directors have had regard to the matters set out in section 172(1)(a) to (f) when performing their duty under section 172.

(2) Subsection (1) does not apply if the company qualifies as medium-sized in relation to that financial year (see sections 465 to 467).**]**

Textual Amendments

F306 S. 414CZA inserted (with application in accordance with reg. 1(4) of the amending S.I.) by The Companies (Miscellaneous Reporting) Regulations 2018 (S.I. 2018/860), regs. 1(1), **4**

[F307 414CA Non-financial information statement

(1) A strategic report of a company must include a non-financial information statement if the company was at any time within the financial year to which the report relates—

(a) a traded company,

(b) a banking company,

(c) an authorised insurance company, or

(d) a company carrying on insurance market activity.

(2) If the company's strategic report is a group strategic report, the non-financial information statement to be included in the report under subsection (1) must be a consolidated statement (a "group non-financial information statement") relating to the undertakings included in the consolidation.

(3) Subsection (1) does not apply if—

(a) the company is subject to the small companies regime in relation to that financial year (see sections 382 to 384), or

(b) the company qualifies as medium-sized in relation to that financial year (see sections 465 to 467).

(4) Subsection (1) does not apply if—

(a) where the company was not a parent company in that financial year, the company had no more than 500 employees in that financial year, or

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(b) where the company was a parent company at any time within that financial year, the aggregate number of employees for a group headed by that company in that financial year was no more than 500.

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

(a) find for each month in the financial year the number of persons employed under contracts of service by the company in that month (whether throughout the month or not),

(b) add together the monthly totals, and

(c) divide by the number of months in the financial year.

(6) The aggregate number of employees for a group is ascertained by aggregating the relevant figures determined in accordance with subsection (5) for each member of the group.

(7) Subsection (1) does not apply if the company is a subsidiary undertaking at the end of that financial year and is included in—

(a) a group strategic report of a parent undertaking of the company that satisfies the requirements in subsection (8), [F308]...

[F308](b) . . . . . .

(8) The requirements in this subsection are that—

(a) the group strategic report relates to undertakings that include the company and its subsidiary undertakings (if any),

(b) the report is prepared for a financial year of the parent undertaking that ends at the same time as, or before the end of, the company's financial year, and

(c) the report includes a group non-financial information statement in respect of all the undertakings included in the consolidation.

[F309](9) . . . . . .

(10) A company to which subsection (1) does not apply may include a non-financial information statement in its strategic report or, as the case may be, a group non-financial information statement in its group strategic report.

Textual Amendments

F307 Ss. 414CA, 414CB inserted (with application in accordance with reg. 1(2) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Non-Financial Reporting) Regulations 2016 (S.I. 2016/1245), regs. 1(1), **4**

F308 S. 414CA(7)(b) and word omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 12(a)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F309 S. 414CA(9) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 12(b)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

Status: *Point in time view as at 31/12/2020.*
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414CB Contents of non-financial information statement

(1) The non-financial information statement must contain information, to the extent necessary for an understanding of the company's development, performance and position and the impact of its activity, relating to, as a minimum—

(a) environmental matters (including the impact of the company's business on the environment),

(b) the company's employees,

(c) social matters,

(d) respect for human rights, and

(e) anti-corruption and anti-bribery matters.

(2) The information must include—

(a) a brief description of the company's business model,

(b) a description of the policies pursued by the company in relation to the matters mentioned in subsection (1)(a) to (e) and any due diligence processes implemented by the company in pursuance of those policies,

(c) a description of the outcome of those policies,

(d) a description of the principal risks relating to the matters mentioned in subsection (1)(a) to (e) arising in connection with the company's operations and, where relevant and proportionate—

(i) a description of its business relationships, products and services which are likely to cause adverse impacts in those areas of risk, and

(ii) a description of how it manages the principal risks, and

(e) a description of the non-financial key performance indicators relevant to the company's business.

(3) In subsection (2)(e), "key performance indicators" means factors by reference to which the development, performance or position of the company's business, or the impact of the company's activity, can be measured effectively.

(4) If the company does not pursue policies in relation to one or more of the matters mentioned in subsection (1)(a) to (e), the statement must provide a clear and reasoned explanation for the company's not doing so.

(5) The statement must, where appropriate, include references to, and additional explanations of, amounts included in the company's annual accounts.

(6) If information required by subsections (1) to (5) to be included in the statement is published by the company by means of a national, EU-based or international reporting framework, the statement must specify the framework or frameworks used, instead of including that information.

(7) If a non-financial information statement complies with subsections (1) to (6), the strategic report of which it is part is to be treated as complying with the requirements in—

(a) section 414C(4)(b),

(b) section 414C(7), except as it relates to community issues,

(c) section 414C(8)(b), and

(d) section 414C(12), so far as relating to the provisions mentioned in paragraphs (a) to (c).

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(8) In relation to a group non-financial information statement, this section has effect as if the references to the company were references to the undertakings included in the consolidation.

(9) Nothing in this section requires the disclosure of information about impending developments or matters in the course of negotiation if the disclosure would, in the opinion of the directors, be seriously prejudicial to the commercial interests of the company, provided that the non-disclosure does not prevent a fair and balanced understanding of the company's development, performance or position or the impact of the company's activity.**]**

Textual Amendments

F307 Ss. 414CA, 414CB inserted (with application in accordance with reg. 1(2) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Non-Financial Reporting) Regulations 2016 (S.I. 2016/1245), regs. 1(1), **4**

414D Approval and signing of strategic report

(1) The strategic report must be approved by the board of directors and signed on behalf of the board by a director or the secretary of the company.

(2) If a strategic report is approved that does not comply with the requirements of this Act, every director of the company who—

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

(b) failed to take reasonable steps to secure compliance with those requirements or, as the case may be, to prevent the report from being approved,

commits an offence.

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

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

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

Modifications etc. (not altering text)

C602 S. 414D applied (with modifications) by S.I. 2008/1911, reg. 12A (as inserted (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 4** (with reg. 2(6)(7)))

CHAPTER 5

DIRECTORS' REPORT

Modifications etc. (not altering text)

C603 Pt. 15 Ch. 5 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 3**

C604 Pt. 15 Ch. 5 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

C605 Pt. 15 Ch. 5 applied (with modifications) by S.I. 2008/565, reg. 3 (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 3** (with reg. 2(6)(7)))

Directors' report

415 Duty to prepare directors' report

(1) The directors of a company must prepare a directors' report for each financial year of the company.

[[F310](1A) Subsection (1) does not apply if the company qualifies as a micro-entity (see sections 384A and 384B).**]**

(2) For a financial year in which—

(a) the company is a parent company, and

(b) the directors of the company prepare group accounts,

the directors' report must be a consolidated report (a "group directors' report") relating to the undertakings included in the consolidation.

(3) A group directors' report may, where appropriate, give greater emphasis to the matters that are significant to the undertakings included in the consolidation, taken as a whole.

(4) In the case of failure to comply with the requirement to prepare a directors' report, an offence is committed by every person who—

(a) was a director of the company immediately before the end of the period for filing accounts and reports for the financial year in question, and

(b) failed to take all reasonable steps for securing compliance with that requirement.

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

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

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

Textual Amendments

F310 S. 415(1A) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **7** (with reg. 3)

Modifications etc. (not altering text)

C606 Ss. 380-416 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C607 Ss. 415-416 applied (with modifications) by S.I. 2009/2436, **Sch 1 para. 10** (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C608 Ss. 415-416 applied (with modifications) by S.I. 2008/1911, **reg. 12B** (as inserted (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **10**)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

[F311 415A Directors' report: small companies exemption

(1) A company is entitled to small companies exemption in relation to the directors' report for a financial year if—

(a) it is entitled to prepare accounts for the year in accordance with the small companies regime, or

(b) it would be so entitled but for being or having been a member of an ineligible group.

(2) The exemption is relevant to—

section 416(3) (contents of report: statement of amount recommended by way of dividend),**[**F312and**]**

F313 ...

sections 444 to 446 (filing obligations of different descriptions of company).**]**

Textual Amendments

F311 S. 415A inserted (6.4.2008) by The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (S.I. 2008/393), **reg. 6(2)**

F312 Word in s. 415A(2) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3)**4(a)**

F313 Words in s. 415A(2) omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3)**4(b)**

Modifications etc. (not altering text)

C607 Ss. 415-416 applied (with modifications) by S.I. 2009/2436, **Sch 1 para. 10** (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C609 Ss. 380-416 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C610 Ss. 415-416 applied (with modifications) by S.I. 2008/1911, **reg. 12B** (as inserted (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **10**)

416 Contents of directors' report: general

(1) The directors' report for a financial year must state—

(a) the names of the persons who, at any time during the financial year, were directors of the company, and

F314(b) . . . . . .

F315(2) . . . . . .

(3) Except in the case of a company **[**F316entitled to the small companies exemption**]**, the report must state the amount (if any) that the directors recommend should be paid by way of dividend.

(4) The Secretary of State may make provision by regulations as to other matters that must be disclosed in a directors' report.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Without prejudice to the generality of this power, the regulations may make any such provision as was formerly made by Schedule 7 to the Companies Act 1985.

Textual Amendments

F314 S. 416(1)(b) omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3)**6(2)**

F315 S. 416(2) omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3)**6(3)**

F316 Words in s. 416(3) substituted (6.4.2008) by The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (S.I. 2008/393), **reg. 6(3)**

Modifications etc. (not altering text)

C607 Ss. 415-416 applied (with modifications) by S.I. 2009/2436, **Sch 1 para. 10** (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C611 Ss. 380-416 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C612 Ss. 415-416 applied (with modifications) by S.I. 2008/1911, **reg. 12B** (as inserted (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **10**)

Commencement Information

I186 S. 416 wholly in force at 6.4.2008; s. 416 not in force at Royal Assent, see s. 1300; s. 416 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 416 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 6-8)

F317 417 Contents of directors' report: business review

. . . . . .

Textual Amendments

F317 S. 417 omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3)**5**

418 Contents of directors' report: statement as to disclosure to auditors

(1) This section applies to a company unless—

(a) it is exempt for the financial year in question from the requirements of Part 16 as to audit of accounts, and

(b) the directors take advantage of that exemption.

(2) The directors' report must contain a statement to the effect that, in the case of each of the persons who are directors at the time the report is approved—

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(a) so far as the director is aware, there is no relevant audit information of which the company's auditor is unaware, and

(b) he has taken all the steps that he ought to have taken as a director in order to make himself aware of any relevant audit information and to establish that the company's auditor is aware of that information.

(3) "Relevant audit information" means information needed by the company's auditor in connection with preparing his report.

(4) A director is regarded as having taken all the steps that he ought to have taken as a director in order to do the things mentioned in subsection (2)(b) if he has—

(a) made such enquiries of his fellow directors and of the company's auditors for that purpose, and

(b) taken such other steps (if any) for that purpose,

as are required by his duty as a director of the company to exercise reasonable care, skill and diligence.

(5) Where a directors' report containing the statement required by this section is approved but the statement is false, every director of the company who—

(a) knew that the statement was false, or was reckless as to whether it was false, and

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

commits an offence.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

Modifications etc. (not altering text)

C613 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C614 Ss. 418-419A applied (with modifications) by S.I. 2009/2436, Sch 1 para. 10 (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

419 Approval and signing of directors' report

(1) The directors' report must be approved by the board of directors and signed on behalf of the board by a director or the secretary of the company.

(2) **[**[F318]If in preparing the report advantage is taken of the small companies exemption,**]**, it must contain a statement to that effect in a prominent position above the signature.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(3) If a directors' report is approved that does not comply with the requirements of this Act, every director of the company who—

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

(b) failed to take reasonable steps to secure compliance with those requirements or, as the case may be, to prevent the report from being approved,

commits an offence.

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

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

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

Textual Amendments

F318 Words in s. 419(2) substituted (6.4.2008) by The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (S.I. 2008/393), **reg. 6(5)**

Modifications etc. (not altering text)

C614 Ss. 418-419A applied (with modifications) by S.I. 2009/2436, Sch 1 para. 10 (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

C615 S. 419 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C616 S. 419 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 5** (as amended (1.1.2018) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **8** (with reg. 2(6)(7)))

C617 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C618 S. 419 applied (with modifications) by S.I. 2008/1911, reg. 12B (as inserted (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **10**)

[F319 419A Approval and signing of separate corporate governance statement

Any separate corporate governance statement must be approved by the board of directors and signed on behalf of the board by a director or the secretary of the company.]

Textual Amendments

F319 S. 419A inserted (27.6.2009) by The Companies Act 2006 (Accounts, Reports and Audit) Regulations 2009 (S.I. 2009/1581), **reg. 2** (with application as stated in reg. 1(3))

Modifications etc. (not altering text)

C614 Ss. 418-419A applied (with modifications) by S.I. 2009/2436, Sch 1 para. 10 (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

C619 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

CHAPTER 6

QUOTED COMPANIES [F320 AND TRADED COMPANIES]: DIRECTORS' REMUNERATION REPORT

Textual Amendments

F320 Words in Pt. 15 Ch. 6 heading inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **11**

420 Duty to prepare directors' remuneration report

(1) The directors of a quoted company[F321, or of a traded company (as defined by section 360C) that is not a quoted company,] must prepare a directors' remuneration report for each financial year of the company.

(2) In the case of failure to comply with the requirement to prepare a directors' remuneration report, every person who—

(a) was a director of the company immediately before the end of the period for filing accounts and reports for the financial year in question, and

(b) failed to take all reasonable steps for securing compliance with that requirement,

commits an offence.

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

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

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

Textual Amendments

F321 Words in s. 420(1) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **12**

Modifications etc. (not altering text)

C620 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

421 Contents of directors' remuneration report

(1) The Secretary of State may make provision by regulations as to—

(a) the information that must be contained in a directors' remuneration report,

(b) how information is to be set out in the report, and

(c) what is to be the auditable part of the report.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Without prejudice to the generality of this power, the regulations may make any such provision as was made, immediately before the commencement of this Part, by Schedule 7A to the Companies Act 1985 (c. 6).

F322[F323(2A) The regulations must provide that any information required to be included in the report as to the policy of the company with respect to the making of remuneration payments and payments for loss of office (within the meaning of Chapter 4A of Part 10) is to be set out in a separate part of the report.]

(3) It is the duty of—

(a) any director of a company, and

(b) any person who is or has at any time in the preceding five years been a director of the company,

to give notice to the company of such matters relating to himself as may be necessary for the purposes of regulations under this section.

(4) A person who makes default in complying with subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Textual Amendments

F322 S. 421(2A) inserted (25.4.2013 for specified purposes, 1.10.2013 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 79(1)**, 103(1)(i), (3); S.I. 2013/2227, art. 2(h)

F323 S. 421(2A) inserted (25.4.2013 for specified purposes) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 79(1)**, 103(1)(i)

Modifications etc. (not altering text)

C621 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I187 S. 421 wholly in force at 6.4.2008; s. 421 not in force at Royal Assent, see s. 1300; s. 421 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 421 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 6-8)

422 Approval and signing of directors' remuneration report

(1) The directors' remuneration report must be approved by the board of directors and signed on behalf of the board by a director or the secretary of the company.

(2) If a directors' remuneration report is approved that does not comply with the requirements of this Act, every director of the company who—

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

(b) failed to take reasonable steps to secure compliance with those requirements or, as the case may be, to prevent the report from being approved,

commits an offence.

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

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

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

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

Modifications etc. (not altering text)

C622 S. 422 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 6**

C623 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

F325[F324 422A Revisions to directors' remuneration policy

(1) The directors' remuneration policy contained in a company's directors' remuneration report may be revised.

(2) Any such revision must be approved by the board of directors.

(3) The policy as so revised must be set out in a document signed on behalf of the board by a director or the secretary of the company.

(4) Regulations under section 421(1) may make provision as to—

(a) the information that must be contained in a document setting out a revised directors' remuneration policy, and

(b) how information is to be set out in the document.

(5) Sections 422(2) and (3), 454, 456 and 463 apply in relation to such a document as they apply in relation to a directors' remuneration report.

(6) In this section, "directors' remuneration policy" means the policy of a company with respect to the matters mentioned in section 421(2A).**]**

Textual Amendments

F324 S. 422A inserted (25.4.2013 for specified purposes) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 79(2)**, 103(1)(i)

F325 S. 422A inserted (25.4.2013 for specified purposes, 1.10.2013 in so far as not already in force) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 79(2)**, 103(1)(i), (3); S.I. 2013/2227, art. 2(h)

CHAPTER 7

PUBLICATION OF ACCOUNTS AND REPORTS

Modifications etc. (not altering text)

C624 Pt. 15 Ch. 7 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Duty to circulate copies of accounts and reports

423 Duty to circulate copies of annual accounts and reports

(1) Every company must send a copy of its annual accounts and reports for each financial year to—

(a) every member of the company,

(b) every holder of the company's debentures, and

(c) every person who is entitled to receive notice of general meetings.

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

(3) A company has a "current address" for a person if—

(a) an address has been notified to the company by the person as one at which documents may be sent to him, and

(b) the company has no reason to believe that documents sent to him at that address will not reach him.

(4) In the case of a company not having a share capital, copies need not be sent to anyone who is not entitled to receive notices of general meetings of the company.

(5) Where copies are sent out over a period of days, references in the Companies Acts to the day on which copies are sent out shall be read as references to the last day of that period.

(6) This section has effect subject to section 426 (option to provide **[**F326strategic report with supplementary material**]**).

Textual Amendments

F326 Words in s. 423(6) substituted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 3**

Modifications etc. (not altering text)

C625 Ss. 423-425 applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art 2** (with Sch.)

C626 S. 423-425 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C627 Ss. 423-425 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C628 S. 423 modified (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 10(2)(d)**

C629 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C630 Ss. 423-425 applied (with modifications) by S.I. 2009/2436, Sch 1 para. 10 (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

Status: *Point in time view as at 31/12/2020.*
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C631 S. 423 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 13 (as amended: (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **12(3)**; and (with effect for financial years beginning on or after 6.4.2021) by The European Grouping of Territorial Cooperation and Limited Liability Partnerships etc. (Revocations and Amendments) (EU Exit) Regulations 2021 (S.I. 2021/153), regs. 1, **6(3)**)

C632 S. 423(2)-(4) applied (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 12(3)**

424 Time allowed for sending out copies of accounts and reports

(1) The time allowed for sending out copies of the company's annual accounts and reports is as follows.

(2) A private company must comply with section 423 not later than—

(a) the end of the period for filing accounts and reports, or

(b) if earlier, the date on which it actually delivers its accounts and reports to the registrar.

(3) A public company must comply with section 423 at least 21 days before the date of the relevant accounts meeting.

(4) If in the case of a public company copies are sent out later than is required by subsection (3), they shall, despite that, be deemed to have been duly sent if it is so agreed by all the members entitled to attend and vote at the relevant accounts meeting.

(5) Whether the time allowed is that for a private company or a public company is determined by reference to the company's status immediately before the end of the accounting reference period by reference to which the financial year for the accounts in question was determined.

(6) In this section the "relevant accounts meeting" means the accounts meeting of the company at which the accounts and reports in question are to be laid.

Modifications etc. (not altering text)

C630 Ss. 423-425 applied (with modifications) by S.I. 2009/2436, Sch 1 para. 10 (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

C633 Ss. 423-425 applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

C634 S. 423-425 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C635 Ss. 423-425 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C636 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

425 Default in sending out copies of accounts and reports: offences

(1) If default is made in complying with section 423 or 424, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

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

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

Modifications etc. (not altering text)

C630 Ss. 423-425 applied (with modifications) by S.I. 2009/2436, Sch 1 para. 10 (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

C637 S. 423-425 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C638 S. 425 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 12(4)**

C639 Ss. 423-425 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C640 Ss. 423-425 applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

C641 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C642 S. 425 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 14 (as amended (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **13(3)**)

Option to provide ***[****F327 strategic report with supplementary material****]***

Textual Amendments

F327 Words in s. 426 cross-heading substituted (6.8.2013 for specified purposes and otherwise with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), regs. 1(2)(3), **10(2)**

426 Option to provide [F328 strategic report with supplementary material]

F329 (1) A company may—

(a) in such cases as may be specified by regulations made by the Secretary of State, and

(b) provided any conditions so specified are complied with,

provide a **[**F330 copy of the strategic report together with the supplementary material described in section 426A**]** instead of copies of the accounts and reports required to be sent out in accordance with section 423.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Copies of those accounts and reports must, however, be sent to any person entitled to be sent them in accordance with that section and who wishes to receive them.

(3) The Secretary of State may make provision by regulations as to the manner in which it is to be ascertained, whether before or after a person becomes entitled to be sent a copy of those accounts and reports, whether he wishes to receive them.

F331(4) . . . . . .

(5) This section applies to copies of accounts and reports required to be sent out by virtue of section 146 to a person nominated to enjoy information rights as it applies to copies of accounts and reports required to be sent out in accordance with section 423 to a member of the company.

(6) Regulations under this section are subject to negative resolution procedure.

Textual Amendments

F328 Words in s. 426 heading substituted (6.8.2013 for specified purposes and otherwise with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), regs. 1(2)(3), **10(2)**

F329 Words in s. 426(1) substituted (6.8.2013 for specified purposes, with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3)**10(3)**

F330 Words in s. 426(1) substituted (6.8.2013 for specified purposes and otherwise with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), regs. 1(2)(3), **10(3)**

F331 S. 426(4) omitted (6.8.2013 for specified purposes, with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3)**10(4)**

Modifications etc. (not altering text)

C643 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C644 S. 426(1)-(4) applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **regs. 17(2)**, 19(3)

C645 S. 426(1)(2) applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **regs. 17(4)**, 19(3)

Commencement Information

I188 S. 426 wholly in force at 6.4.2008; s. 426 not in force at Royal Assent, see s. 1300; s. 426 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 426 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 6-8)

[F332426A Supplementary material

(1) The supplementary material referred to in section 426 must be prepared in accordance with this section.

(2) The supplementary material must—

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(a) contain a statement that the strategic report is only part of the company's annual accounts and reports;

(b) state how a person entitled to them can obtain a full copy of the company's annual accounts and reports;

(c) state whether the auditor's report on the annual accounts was unqualified or qualified and, if it was qualified, set out the report in full together with any further material needed to understand the qualification;

(d) state whether, in that report, the auditor's statement under section 496 (whether strategic report and directors' report consistent with the accounts) was unqualified or qualified and, if it was qualified, set out the qualified statement in full together with any further material needed to understand the qualification;

(e) in the case of a quoted company **[**F333or of a traded company (as defined by section 360C) that is not a quoted company**]**, contain a copy of that part of the directors' remuneration report which sets out the single total figure table in respect of the company's directors' remuneration in accordance with the requirements of Schedule 8 to the Large and Medium-sized Companies (Accounts and Reports) Regulations 2008 (S.I. 2008/410). **]**

Textual Amendments

F332 S. 426A inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3)**12(1)**

F333 Words in s. 426A(2)(e) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **13**

[**F334Section 172(1) statement: requirements as to website publication

Textual Amendments

F334 S. 426B and cross-heading inserted (with application in accordance with reg. 1(4) of the amending S.I.) by The Companies (Miscellaneous Reporting) Regulations 2018 (S.I. 2018/860), regs. 1(1), **5**

426B. Section 172(1) statement to be made available on website

(1) This section applies if—

(a) a company is required by section 414CZA to include a section 172(1) statement in its strategic report for a financial year, and

(b) the company is an unquoted company in relation to that financial year.

(2) The company must ensure that the section 172(1) statement—

(a) is made available on a website, and

(b) remains so available until—

(i) the section 172(1) statement for the company's next financial year is made available in accordance with this section, or

(ii) if the obligation under this section to make a section 172(1) statement available does not arise in relation to the company's next financial year, the end of the company's next financial year.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The section 172(1) statement must be made available on a website that—

(a) is maintained by or on behalf of the company, and

(b) identifies the company in question.

(4) Access to the section 172(1) statement made available on the website under subsection (2), and the ability to obtain a hard copy of the statement from the website, must not be—

(a) conditional on the payment of a fee, or

(b) otherwise restricted, except so far as necessary to comply with any enactment or regulatory requirement (in the United Kingdom or elsewhere).

(5) The section 172(1) statement—

(a) must be made available on a website as soon as reasonably practicable, and

(b) must be kept available throughout the period specified in subsection (2)(b)(i) or (as the case may be) (ii).

(6) A failure to make the section 172(1) statement available on a website throughout the period specified in subsection (2)(b)(i) or (as the case may be) (ii) is disregarded if—

(a) the statement is made available on the website for part of that period, and

(b) the failure is wholly attributable to circumstances that it would not be reasonable to have expected the company to prevent or avoid.

(7) In the event of default in complying with this section, an offence is committed by every officer of the company who is in default.

(8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.**]**

F335 427 Form and contents of summary financial statement: unquoted companies

. . . . . .

Textual Amendments

F335 S. 427 omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), regs. 1(2)(3), **11**

F336 428 Form and contents of summary financial statement: quoted companies

. . . . . .

Textual Amendments

F336 S. 428 omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), regs. 1(2)(3), **11**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

[F337]429 Summary financial statements: offences

. . . . . .

Textual Amendments

F337 S. 429 omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), regs. 1(2)(3), **13**

Quoted companies [F338and traded companies]: requirements as to website publication

Textual Amendments

F338 Words in s. 430 cross-heading inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **14**

430 Quoted companies [F339and traded companies]: annual accounts and reports to be made available on website

(1) A quoted company **[**F340or unquoted traded company**]** must ensure that its annual accounts and reports—

(a) are made available on a website, and

(b) **[**F341subject to subsection (4ZA),**]** remain so available until the annual accounts and reports for the company's next financial year are made available in accordance with this section.

(2) The annual accounts and reports must be made available on a website that—

(a) is maintained by or on behalf of the company, and

(b) identifies the company in question.

[F342(2A) If the directors' remuneration policy of a quoted company **[**F343or unquoted traded company**]** is revised in accordance with section 422A **[**F344or amended as mentioned in section 226B(1)(b) or section 226C(1)(b),**]** the company must ensure that the revised **[**F345or amended**]** policy is made available on the website on which its annual accounts and reports are made available.

(2B) If a person ceases to be a director of a quoted company **[**F346or of an unquoted traded company**]**, the company must ensure that the following information is made available on the website on which its annual accounts and reports are made available—

(a) the name of the person concerned,

(b) particulars of any remuneration payment (within the meaning of Chapter 4A of Part 10) made or to be made to the person after ceasing to be a director, including its amount and how it was calculated, and

(c) particulars of any payment for loss of office (within the meaning of that Chapter) made or to be made to the person, including its amount and how it was calculated.**]**

[F347(2C) Where the members of a quoted company or of an unquoted traded company have passed a resolution approving the relevant directors' remuneration policy (within the meaning of section 439A(7))—

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the company must ensure that the following information is made available on the website on which its remuneration policy is made available as soon as reasonably practicable, and kept available for as long as that information is applicable —

(i) the date of the resolution,

(ii) the number of votes validly cast,

(iii) the proportion of the company's issued share capital represented by those votes,

(iv) the number of votes cast in favour,

(v) the number of votes cast against, and

(vi) the number of abstentions; and

(b) for the purposes of paragraph (a)(iii), the proportion of the issued share capital must be determined by reference to the register of members as at a time (determined by the company) that is not more than 48 hours before the time for the holding of the meeting at which the resolution was passed.**]**

(3) Access to **[**F348the material made available on the website under subsections (1) to **[**F349(2C)**]]**, and the ability to obtain a hard copy of **[**F350such material from**]** the website, must not be—

(a) conditional on the payment of a fee, or

(b) otherwise restricted, except so far as necessary to comply with any enactment or regulatory requirement (in the United Kingdom or elsewhere).

(4) The annual accounts and reports—

(a) must be made available as soon as reasonably practicable, and

(b) **[**F351subject to subsection (4ZA),**]** must be kept available throughout the period specified in subsection (1)(b).

[F352(4ZA) The directors' remuneration report—

(a) must be kept available for a period of ten years beginning with the date it is first made available in accordance with this section, and

(b) may be kept available for a longer period if it does not contain personal data within the meaning of the Data Protection Act 2018 (see section 3(2) of that Act).**]**

[F353(4A) Where subsection (2A) or (2B) applies, the material in question—

(a) must be made available as soon as reasonably practicable, F354...

(b) must be kept available until the next directors' remuneration report of the company is made available on the website**][**F355, and**]**

[F356(c) in a subsection (2A) case, must be kept available for at least as long as it is applicable.**]**

(5) A failure to make **[**F357material available on a website throughout the period mentioned in subsection (4) or (as the case may be) **[**F358(4ZA) or**]** (4A)**]** is disregarded if—

(a) **[**F359the material is**]** made available on the website for part of that period, and

(b) the failure is wholly attributable to circumstances that it would not be reasonable to have expected the company to prevent or avoid.

(6) In the event of default in complying with this section, an offence is committed by every officer of the company who is in default.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

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

[[F360](8) In this section "unquoted traded company" means a traded company (as defined by section 360C) that is not a quoted company.**]**

Textual Amendments

F339 Words in s. 430 heading inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **15(a)** (with reg. 2)

F340 Words in s. 430(1) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **15(b)** (with reg. 2)

F341 Words in s. 430(1)(b) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **15(c)** (with reg. 2)

F342 S. 430(2A)(2B) inserted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 81(6)**, 103(3); S.I. 2013/2227, art. 2(h)

F343 Words in s. 430(2A) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **15(d)(i)** (with reg. 2)

F344 Words in s. 430(2A) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **15(d)(ii)** (with reg. 2)

F345 Words in s. 430(2A) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **15(d)(iii)** (with reg. 2)

F346 Words in s. 430(2B) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **15(e)** (with reg. 2)

F347 S. 430(2C) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **15(f)** (with reg. 2)

F348 Words in s. 430(3) substituted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 81(7)(a)**, 103(3); S.I. 2013/2227, art. 2(h)

F349 Word in s. 430(3) substituted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **15(g)** (with reg. 2)

F350 Words in s. 430(3) substituted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 81(7)(b)**, 103(3); S.I. 2013/2227, art. 2(h)

F351 Words in s. 430(4)(b) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **15(h)** (with reg. 2)

F352 S. 430(4ZA) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **15(i)** (with reg. 2)

F353 S. 430(4A) inserted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 81(8)**, 103(3); S.I. 2013/2227, art. 2(h)

F354 Word in s. 430(4A)(a) omitted (10.6.2019) by virtue of The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **15(j)(i)** (with reg. 2)

F355 Word in s. 430(4A)(b) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **15(j)(ii)** (with reg. 2)

F356 S. 430(4A)(c) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **15(j)(iii)** (with reg. 2)

F357 Words in s. 430(5) substituted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 81(9)(a)**, 103(3); S.I. 2013/2227, art. 2(h)

F358 Words in s. 430(5) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **15(k)** (with reg. 2)

F359 Words in s. 430(5)(a) substituted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 81(9)(b)**, 103(3); S.I. 2013/2227, art. 2(h)

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F360 S. 430(8) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **15(l)**

Modifications etc. (not altering text)

C646 Ss. 430-433 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C647 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C648 Ss. 430-438 applied (with modifications) by S.I. 2009/2436, Sch 1 para. 10 (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

Right of member or debenture holder to demand copies of accounts and reports

431 Right of member or debenture holder to copies of accounts and reports: unquoted companies

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

(a) the company's last annual accounts,

[F361(aa) the strategic report (if any) for the last financial year,**]**

(b) the last directors' report, F362...

[F363(ba) the last directors' remuneration report (if any), and**]**

(c) the auditor's report on those accounts (including the statement on that report **[**F364and (where applicable) on the strategic report**][**F365and on the directors' remuneration report**]**).

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

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

(a) the company, and

(b) every officer of the company who is in default.

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

Textual Amendments

F361 S. 431(1)(aa) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 4(a)**

F362 Word in s. 431(1)(b) omitted (10.6.2019) by virtue of The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **16(a)**

F363 S. 431(1)(ba) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **16(b)**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F364 Words in s. 431(1)(c) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 4(b)**

F365 Words in s. 431(1)(c) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **16(c)**

Modifications etc. (not altering text)

C648 Ss. 430-438 applied (with modifications) by S.I. 2009/2436, Sch 1 para. 10 (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

C649 Ss. 430-433 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C650 S. 431 modified (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 10(2)(a)**

C651 S. 431 modified (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 11(2)(a)**

C652 S. 431 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C653 S. 431 applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

C654 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C655 S. 431 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 15 (as amended (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **14(3)**)

432 Right of member or debenture holder to copies of accounts and reports: quoted companies

(1) A member of, or holder of debentures of, a quoted company is entitled to be provided, on demand and without charge, with a copy of—

(a) the company's last annual accounts,

(b) the last directors' remuneration report,

[[F366](ba) the strategic report (if any) for the last financial year,**]**

(c) the last directors' report, and

(d) the auditor's report on those accounts (including the report on the directors' remuneration report**[**[F367], on the strategic report (where this is covered by the auditor's report)**]** and on the directors' report).

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

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

(a) the company, and

(b) every officer of the company who is in default.

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

Textual Amendments

F366 S. 432(1)(ba) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 5(a)**

F367 Words in s. 432(1)(d) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 5(b)**

Modifications etc. (not altering text)

C648 Ss. 430-438 applied (with modifications) by S.I. 2009/2436, Sch 1 para. 10 (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

C656 Ss. 430-433 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C657 S. 432 modified (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 10(2)(b)**

C658 S. 432 modified (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 11(2)(a)**

C659 S. 432 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C660 S. 432 applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

C661 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Requirements in connection with publication of accounts and reports

433 Name of signatory to be stated in published copies of accounts and reports

(1) Every copy of a document to which this section applies that is published by or on behalf of the company must state the name of the person who signed it on behalf of the board.

(2) In the case of an unquoted company **[**F368that is not a traded company**]**, this section applies to copies of—

(a) the company's balance sheet, F369...

[F370(aa) the strategic report, and**]**

(b) the directors' report.

(3) In the case of a quoted company **[**F371or of a traded company (as defined by section 360C) that is not a quoted company**]**, this section applies to copies of—

(a) the company's balance sheet,

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(b) the directors' remuneration report, [F372]...

[[F373](ba) the strategic report, and]

(c) the directors' report.

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

(a) the company, and

(b) every officer of the company who is in default.

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

Textual Amendments

F368 Words in s. 433(2) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **17(a)**

F369 Word in s. 433(2)(a) omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 6(a)(i)**

F370 S. 433(2)(aa) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 6(a)(ii)**

F371 Words in s. 433(3) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **17(b)**

F372 Word in s. 433(3)(b) omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 6(b)(i)**

F373 S. 433(3)(ba) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 6(b)(ii)**

Modifications etc. (not altering text)

C648 Ss. 430-438 applied (with modifications) by S.I. 2009/2436, Sch 1 para. 10 (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

C662 Ss. 430-433 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C663 S. 433 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 3**

C664 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C665 Ss. 433-436 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 16 (as amended (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **15(3))**

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434 Requirements in connection with publication of statutory accounts

(1) If a company publishes any of its statutory accounts, they must be accompanied by the auditor's report on those accounts (unless the company is exempt from audit and the directors have taken advantage of that exemption).

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

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

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

(a) the company, and

(b) every officer of the company who is in default.

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

F374(6) . . . . . .

Textual Amendments

F374 S. 434(6) omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 7**

Modifications etc. (not altering text)

C648 Ss. 430-438 applied (with modifications) by S.I. 2009/2436, Sch 1 para. 10 (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

C666 Ss. 434-436 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C667 Ss. 433-436 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 16**

C668 Ss. 434-436 applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

C669 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C670 S. 434(3) modified (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 10(2)(c)**

C671 S. 434(6) applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **regs. 17(2)**, 19(3)

C672 S. 434(6) applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **regs. 17(4)**, 19(3)

435 Requirements in connection with publication of non-statutory accounts

(1) If a company publishes non-statutory accounts, it must publish with them a statement indicating—

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(a) that they are not the company's statutory accounts,

(b) whether statutory accounts dealing with any financial year with which the non-statutory accounts purport to deal have been delivered to the registrar, and

(c) whether an auditor's report has been made on the company's statutory accounts for any such financial year, and if so whether the report—

(i) was qualified or unqualified, or included a reference to any matters to which the auditor drew attention by way of emphasis without qualifying the report, or

(ii) contained a statement under section 498(2) (accounting records or returns inadequate or accounts or directors' remuneration report not agreeing with records and returns), or section 498(3) (failure to obtain necessary information and explanations).

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

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

(a) any balance sheet or profit and loss account relating to, or purporting to deal with, a financial year of the company, or

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

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

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

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

(a) the company, and

(b) every officer of the company who is in default.

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

F375(7) . . . . . .

Textual Amendments

F375 S. 435(7) omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 8**

Modifications etc. (not altering text)

C648 Ss. 430-438 applied (with modifications) by S.I. 2009/2436, Sch 1 para. 10 (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

C673 Ss. 434-436 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C674 Ss. 433-436 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 16**

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C675 Ss. 434-436 applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)
C676 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)
C677 S. 435(7) applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **regs. 17(2)**, 19(3)
C678 S. 435(7) applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **regs. 17(4)**, 19(3)

436 Meaning of "publication" in relation to accounts and reports

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

section 433 (name of signatory to be stated in published copies of accounts and reports),

section 434 (requirements in connection with publication of statutory accounts), and

section 435 (requirements in connection with publication of non-statutory accounts).

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

Modifications etc. (not altering text)
C648 Ss. 430-438 applied (with modifications) by S.I. 2009/2436, Sch 1 para. 10 (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**
C679 Ss. 434-436 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))
C680 Ss. 434-436 applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)
C681 S. 436 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 3**
C682 S. 436 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))
C683 S. 436(2) applied (1.4.2009 with effect as noted in s. 1329(1) of the amending act) by Corporation Tax Act 2009 (c. 4), **ss. 1046(3)**, (with Sch 2 Pts. 1, 2)
C684 S. 436(2) applied (1.4.2009 with effect as noted in s. 1329(1) of the amending act) by Corporation Tax Act 2009 (c. 4), **ss. 1057(5)**, (with Sch 2 Pts. 1, 2)
C685 S. 436(2) applied (1.4.2009 with effect as noted in s. 1329(1) of the amending act) by Corporation Tax Act 2009 (c. 4), **ss. 1094(3)**, (with Sch 2 Pts. 1, 2)
C686 S. 436(2) applied (1.4.2009 with effect as noted in s. 1329(1) of the amending act) by Corporation Tax Act 2009 (c. 4), **ss. 1106(5)**, (with Sch 2 Pts. 1, 2)
C687 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

C688 Ss. 433-436 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 16 (as amended (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **15(4))**

C689 S. 436(2) modified (with effect as mentioned in Sch. 9 para. 3 of the amending Act) by 2000 c. 17, s. 18A(5) (as inserted by Finance Act 2008 (c. 9), s. 28, **Sch. 9 para. 1(6)**)

C690 S. 436(2) modified (with effect as mentioned in Sch. 9 para. 3 of the amending Act) by 2000 c. 23, s. 18A(5) (as inserted by Finance Act 2008 (c. 9), s. 28, **Sch. 9 para. 2(6)**)

CHAPTER 8

PUBLIC COMPANIES: LAYING OF ACCOUNTS AND REPORTS BEFORE GENERAL MEETING

437 Public companies: laying of accounts and reports before general meeting

(1) The directors of a public company must lay before the company in general meeting copies of its annual accounts and reports.

(2) This section must be complied with not later than the end of the period for filing the accounts and reports in question.

(3) In the Companies Acts"accounts meeting", in relation to a public company, means a general meeting of the company at which the company's annual accounts and reports are (or are to be) laid in accordance with this section.

Modifications etc. (not altering text)

C648 Ss. 430-438 applied (with modifications) by S.I. 2009/2436, Sch 1 para. 10 (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

C691 S. 437 modified (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 10(2)(d)**

C692 S. 437 modified (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 11(2)(b)**

C693 Ss. 437, 438 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C694 Ss. 437, 438 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C695 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

438 Public companies: offence of failure to lay accounts and reports

(1) If the requirements of section 437 (public companies: laying of accounts and reports before general meeting) are not complied with before the end of the period allowed, every person who immediately before the end of that period was a director of the company commits an offence.

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

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

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding **[**F376one-tenth of level 5 on the standard scale**][**F376one-tenth of the greater of £5,000 or level 4 on the standard scale**]**.

Textual Amendments

F376 Words in s. 438(4) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(12)** (with reg. 5(1))

Modifications etc. (not altering text)

C648 Ss. 430-438 applied (with modifications) by S.I. 2009/2436, Sch 1 para. 10 (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

C696 S. 438 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 13(3)**

C697 Ss. 437, 438 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C698 Ss. 437, 438 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C699 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

CHAPTER 9

QUOTED COMPANIES **[**F377AND TRADED COMPANIES**]**: MEMBERS' APPROVAL OF DIRECTORS' REMUNERATION REPORT

Textual Amendments

F377 Words in Pt. 15 Ch. 9 heading inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **18**

439 Quoted companies **[**F378and traded companies**]**: members' approval of directors' remuneration report

(1) A **[**F379company to which this section applies**]** must, prior to the accounts meeting, give to the members of the company entitled to be sent notice of the meeting notice of the intention to move at the meeting, as an ordinary resolution, a resolution approving the

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directors' remuneration report for the financial year**[**F380other than the part containing the directors' remuneration policy (as to which see section 439A).**]**

[F381(1A) This section applies to—

(a) a quoted company, and

(b) a traded company (as defined by section 360C) that is not a quoted company.**]**

(2) The notice may be given in any manner permitted for the service on the member of notice of the meeting.

(3) The business that may be dealt with at the accounts meeting includes the resolution.

This is so notwithstanding any default in complying with subsection (1) or (2).

(4) The existing directors must ensure that the resolution is put to the vote of the meeting.

(5) No entitlement of a person to remuneration is made conditional on the resolution being passed by reason only of the provision made by this section.

(6) In this section—

"the accounts meeting" means the general meeting of the company before which the company's annual accounts for the financial year are to be laid; and

"existing director" means a person who is a director of the company immediately before that meeting.

Textual Amendments

F378 Words in s. 439 heading inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **19(a)**

F379 Words in s. 439(1) substituted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **19(b)**

F380 Words in s. 439(1) inserted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 79(3)**, 103(3); S.I. 2013/2227, art. 2(h)

F381 S. 439(1A) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **19(c)**

Modifications etc. (not altering text)

C700 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

[F382439A Quoted companies **[**F383and traded companies**]**: members' approval of directors' remuneration policy

(1) A quoted company **[**F384or unquoted traded company**]** must give notice of the intention to move, as an ordinary resolution, a resolution approving the relevant directors' remuneration policy—

(a) at the accounts meeting held in the first financial year which begins on or after the day on which the company becomes a quoted company **[**F385or (as the case may be) an unquoted traded company**]**, and

(b) at an accounts or other general meeting held no later than the end of the period of three financial years beginning with the first financial year after the last

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accounts or other general meeting in relation to which notice is given under this subsection.

(2) A quoted company **[**F386or unquoted traded company**]** must give notice of the intention to move at an accounts meeting, as an ordinary resolution, a resolution approving the relevant directors' remuneration policy if—

(a) a resolution required to be put to the vote under section 439 was not passed at the last accounts meeting of the company, and

(b) no notice under this section was given in relation to that meeting or any other general meeting held before the next accounts meeting.

F387**[** A quoted company or unquoted traded company must give notice of the intention to (2A) move at an accounts or other general meeting, as an ordinary resolution, a resolution approving the relevant directors' remuneration policy if—

(a) a resolution required to be put to the vote under subsection (1) or (2) or this subsection was not passed at the last accounts or other general meeting of the company, and

(b) no notice under this section was given in relation to any other general meeting held before the next accounts meeting.**]**

(3) Subsection (2) does not apply in relation to a quoted company **[**F388or unquoted traded company**]** before the first meeting in relation to which it gives notice under subsection (1).

(4) A notice given under subsection (2) **[**F389or (2A)**]** is to be treated as given under subsection (1) for the purpose of determining the period within which the next notice under subsection (1) must be given.

(5) Notice of the intention to move a resolution to which this section applies must be given, prior to the meeting in question, to the members of the company entitled to be sent notice of the meeting.

(6) Subsections (2) to (4) of section 439 apply for the purposes of a resolution to which this section applies as they apply for the purposes of a resolution to which section 439 applies, with the modification that, for the purposes of a resolution relating to a general meeting other than an accounts meeting, subsection (3) applies as if for "accounts meeting" there were substituted " general meeting " .

(7) For the purposes of this section, the relevant directors' remuneration policy is—

(a) in a case where notice is given in relation to an accounts meeting, the remuneration policy contained in the directors' remuneration report in respect of which a resolution under section 439 is required to be put to the vote at that accounts meeting;

(b) in a case where notice is given in relation to a general meeting other than an accounts meeting—

(i) the remuneration policy contained in the directors' remuneration report in respect of which such a resolution was required to be put to the vote at the last accounts meeting to be held before that other general meeting, or

(ii) where that policy has been revised in accordance with section 422A, the policy as so revised.

(8) In this section—

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(a) " accounts meeting " means a general meeting of the company before which the company's annual accounts for a financial year are to be laid;

(b) "directors' remuneration policy" means the policy of the company with respect to the matters mentioned in section 421(2A);**]**

[F390(c) "unquoted traded company" means a traded company (as defined by section 360C) that is not a quoted company.**]**

Textual Amendments

F382 S. 439A inserted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 79(4)**, 103(3); S.I. 2013/2227, art. 2(h)

F383 Words in s. 439A heading inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **20(a)**

F384 Words in s. 439A(1) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **20(b)(i)**

F385 Words in s. 439A(1)(a) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **20(b)(ii)** (with reg. 2)

F386 Words in s. 439A(2) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **20(c)**

F387 S. 439A(2A) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **20(d)**

F388 Words in s. 439A(3) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **20(c)**

F389 Words in s. 439A(4) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **20(e)**

F390 S. 439A(8)(c) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **20(f)**

440 Quoted companies [F391and traded companies]: offences in connection with procedure for approval

(1) In the event of default in complying with section 439(1)**[**F392or 439A(1)**[**F393, (2) or (2A)**]]** (notice to be given of resolution for approval of directors' remuneration report**[**F394or policy**]**), an offence is committed by every officer of the company who is in default.

(2) If the resolution is not put to the vote of **[**F395the meeting to which it relates**]**, an offence is committed by each existing director.

(3) It is a defence for a person charged with an offence under subsection (2) to prove that he took all reasonable steps for securing that the resolution was put to the vote of the meeting.

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

(5) In this section—

F396 …

"existing director" means a person who is a director of the company immediately before that meeting.

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Textual Amendments

F391 Words in s. 440 heading inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **21(a)**

F392 Words in s. 440(1) inserted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 81(10)(a)(i)**, 103(3); S.I. 2013/2227, art. 2(h)

F393 Words in s. 440(1) substituted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **21(b)**

F394 Words in s. 440(1) inserted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 81(10)(a)(ii)**, 103(3); S.I. 2013/2227, art. 2(h)

F395 Words in s. 440(2) substituted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 81(10)(b)**, 103(3); S.I. 2013/2227, art. 2(h)

F396 Words in s. 440(5) omitted (1.10.2013) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), **ss. 81(10)(c)**, 103(3); S.I. 2013/2227, art. 2(h)

Modifications etc. (not altering text)

C701 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), 2(2)(a))

CHAPTER 10

FILING OF ACCOUNTS AND REPORTS

Duty to file accounts and reports

441 Duty to file accounts and reports with the registrar

(1) The directors of a company must deliver to the registrar for each financial year the accounts and reports required by—

section 444 (filing obligations of companies subject to small companies regime),

[[F397]section 444A (filing obligations of companies entitled to small companies exemption in relation to directors' report),**]**

section 445 (filing obligations of medium-sized companies),

section 446 (filing obligations of unquoted companies), or

section 447 (filing obligations of quoted companies).

[[F398](2) This is subject to—

section 448 (unlimited companies exempt from filing obligations), and

section 448A (dormant subsidiaries exempt from filing obligations).**]**

Textual Amendments

F397 Words in s. 441(1) inserted (6.4.2008) by The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (S.I. 2008/393), **reg. 6(6)**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F398 S. 441(2) substituted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **10**

Modifications etc. (not altering text)

C702 S. 441 modified (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), **ss. 38**, 49(1) (with ss. 2(2), 5(2), 19(2))

C703 Ss. 441-448 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C704 Ss. 441-444 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C705 Ss. 441-444A applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

C706 S. 441 modified (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 10(2)(d)**

C707 S. 441 modified (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 11(2)(b)**

C708 S. 441 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 40** (with Sch. 8)

C709 S. 441 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 55** (with Sch. 8)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C711 Ss. 441-444 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 17 (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), 12); (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), Sch. 3 para. 5 (with reg. 2(6)(7)); (as amended (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **17**)

442 Period allowed for filing accounts

(1) This section specifies the period allowed for the directors of a company to comply with their obligation under section 441 to deliver accounts and reports for a financial year to the registrar.

This is referred to in the Companies Acts as the "period for filing" those accounts and reports.

(2) The period is—

(a) for a private company, nine months after the end of the relevant accounting reference period, and

(b) for a public company, six months after the end of that period.

This is subject to the following provisions of this section.

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

(a) nine months or six months, as the case may be, from the first anniversary of the incorporation of the company, or

(b) three months after the end of the accounting reference period,

whichever last expires.

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

(a) that applicable in accordance with the above provisions, or

(b) three months from the date of the notice under that section,

whichever last expires.

(5) **[**F399Subject to subsection (5A),**]** if for any special reason the Secretary of State thinks fit he may, on an application made before the expiry of the period otherwise allowed, by notice in writing to a company extend that period by such further period as may be specified in the notice.

[F400(5A) Any such extension must not have the effect of extending the period for filing to more than twelve months after the end of the relevant accounting reference period.**]**

(6) Whether the period allowed is that for a private company or a public company is determined by reference to the company's status immediately before the end of the relevant accounting reference period.

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

Textual Amendments

F399 Words in s. 442(5) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **8(2)(a)** (with reg. 3)

F400 S. 442(5A) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **8(2)(b)** (with reg. 3)

Modifications etc. (not altering text)

C711 Ss. 441-444 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 17 (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), 12); (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), Sch. 3 para. 5 (with reg. 2(6)(7)); (as amended (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **17**)

C712 S. 442: power to modify conferred (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), **ss. 39(1)**, 40(e), 49(1) (with ss. 2(2), 5(2), 39(8)(9))

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C713 Ss. 441-448 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C714 Ss. 441-444 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C715 Ss. 441-444A applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

C716 S. 442 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 40** (with Sch. 8)

C717 S. 442 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 55** (with Sch. 8)

C718 S. 442 modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **12**

C719 S. 442 modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **11**

443 Calculation of period allowed

(1) This section applies for the purposes of calculating the period for filing a company's accounts and reports which is expressed as a specified number of months from a specified date or after the end of a specified previous period.

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

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

(4) If—

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

(b) the appropriate month is February,

the period ends with the last day of February.

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

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C720 Ss. 441-448 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C721 Ss. 441-444 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

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C722 Ss. 441-444 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 17** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), **regs. 2(1)**, 12 and as further amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 5** (with reg. 2(6)(7)))

C723 Ss. 441-444A applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

C724 S. 443 applied (with modifications) (6.4.2008) by The Companies (Late Filing Penalties) and Limited Liability Partnerships (Filing Periods and Late Filing Penalties) Regulations 2008 (S.I. 2008/497, **reg. 6(1)**, Sch. Pt. 1

Filing obligations of different descriptions of company

444 Filing obligations of companies subject to small companies regime

(1) The directors of a company subject to the small companies regime—

(a) must deliver to the registrar for each financial year a copy of **[**F401the balance sheet**]** drawn up as at the last day of that year, and

(b) may also deliver to the registrar—

(i) a copy of the company's profit and loss account for that year, and

(ii) a copy of the directors' report for that year.

(2) **[**F402Where the directors deliver to the registrar a copy of the company's profit and loss account under subsection (1)(b)(i),**]** the directors must also deliver to the registrar a copy of the auditor's report on **[**F403the accounts (and any directors' report) that it delivers**]**.

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

[F404(2A) Where the balance sheet or profit and loss account is abridged pursuant to paragraph 1A of Schedule 1 to the Small Companies and Groups (Accounts and Directors' Report) Regulations (S.I. 2008/409) , the directors must also deliver to the registrar a statement by the company that all the members of the company have consented to the abridgement. **]**

[F405(3) F406 ... the copies of accounts and reports delivered to the registrar must be copies of the company's annual accounts and reports. **]**

F407(3A) . . . . . .

F407(3B) . . . . . .

F408(4) . . . . . .

(5) Where the directors of a company subject to the small companies regime F409...—

(a) do not deliver to the registrar a copy of the company's profit and loss account, or

(b) do not deliver to the registrar a copy of the directors' report,

the copy of the balance sheet delivered to the registrar must contain in a prominent position a statement that the company's annual accounts and reports have been

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delivered in accordance with the provisions applicable to companies subject to the small companies regime.

[F410(5A) Subject to subsection (5C), where the directors of a company subject to the small companies regime do not deliver to the registrar a copy of the company's profit and loss account—

(a) the copy of the balance sheet delivered to the registrar must disclose that fact, and

(b) unless the company is exempt from audit and the directors have taken advantage of that exemption, the notes to the balance sheet delivered must satisfy the requirements in subsection (5B).

(5B) Those requirements are that the notes to the balance sheet must—

(a) state whether the auditor's report was qualified or unqualified,

(b) where that report was qualified, disclose the basis of the qualification (reproducing any statement under section 498(2)(a) or (b) or section 498(3), if applicable),

(c) where that report was unqualified, include a reference to any matters to which the auditor drew attention by way of emphasis, and

(d) state—

(i) the name of the auditor and (where the auditor is a firm) the name of the person who signed the auditor's report as senior statutory auditor, or

(ii) if the conditions in section 506 (circumstances in which names may be omitted) are met, that a resolution has been passed and notified to the Secretary of State in accordance with that section.

(5C) Subsection (5A) does not apply in relation to a company if—

(a) the company qualifies as a micro-entity (see sections 384A and 384B) in relation to a financial year, and

(b) the company's accounts are prepared for that year in accordance with any of the micro-entity provisions.**]**

(6) The copies of the balance sheet and any directors' report delivered to the registrar under this section must state the name of the person who signed it on behalf of the board.

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

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

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

[F411(8) If more than one person is appointed as auditor, the references in subsections (5B)(d)(i) and (7)(a) to the name of the auditor are to be read as references to the names of all the auditors.**]**

Textual Amendments

F401 Words in s. 444(1)(a) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **8(3)(a)** (with reg. 3)

F402 Words in s. 444(2) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **8(3)(b)** (with reg. 3)

F403 Words in s. 444(2) substituted (6.4.2008) by The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (S.I. 2008/393), **reg. 12**

F404 S. 444(2A) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **8(3)(c)** (with reg. 3)

F405 S. 444(3) substituted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **6(a)** (with reg. 3)

F406 Words in s. 444(3) omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **8(3)(d)** (with reg. 3)

F407 S. 444(3A)(3B) omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **8(3)(e)** (with reg. 3)

F408 S. 444(4) omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **8(3)(e)** (with reg. 3)

F409 Words in s. 444(5) omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **8(3)(f)** (with reg. 3)

F410 S. 444(5A)-(5C) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **8(3)(g)** (with reg. 3)

F411 S. 444(8) inserted (with effect in accordance with reg. 2(3) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 8** (with reg. 2(6)(7))

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C725 Ss. 441-448 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C726 Ss. 441-444 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C727 Ss. 441-444A applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

C728 Ss. 441-444 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 17 (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), 12); (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), Sch. 3 para. 5 (with reg. 2(6)(7))

Commencement Information

I189 S. 444 wholly in force at 6.4.2008; s. 444 not in force at Royal Assent see s. 1300; s. 444 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6,

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8, Sch. 5); s. 444 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 para. 6 and with savings in Sch. 4 paras. 6-8)

[F412 444A Filing obligations of companies entitled to small companies exemption in relation to directors' report

(1) The directors of a company that is entitled to small companies exemption in relation to the directors' report for a financial year—

(a) must deliver to the registrar a copy of the company's annual accounts for that year, and

(b) may also deliver to the registrar a copy of the directors' report.

(2) The directors must also deliver to the registrar a copy of the auditor's report on the accounts (and any directors' report) that it delivers. This does not apply if the company is exempt from audit and the directors have taken advantage of that exception.

(3) The copies of the balance sheet and directors' report delivered to the registrar under this section must state the name of the person who signed it on behalf of the board.

[F413(4) The copy of the auditor's report delivered to the registrar under this section must—

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

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

[If more than one person is appointed as auditor, the reference in subsection (4)(a) to F414(4A) the name of the auditor is to be read as a reference to the names of all the auditors.**]**

(5) This section does not apply to companies within section 444 (filing obligations of companies subject to the small companies regime).**]**

Textual Amendments

F412 S. 444A inserted (6.4.2008) by The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (S.I. 2008/393), **reg. 6(7)**

F413 S. 444A(4) substituted (1.10.2009) by The Companies Act 2006 (Accounts, Reports and Audit) Regulations 2009 (S.I. 2009/1581), **reg. 10**

F414 S. 444A(4A) inserted (with effect in accordance with reg. 2(3) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 9** (with reg. 2(6)(7))

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C729 Ss. 441-448 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C730 Ss. 441-444A applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

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445 Filing obligations of medium-sized companies

(1)) The directors of a company that qualifies as a medium-sized company in relation to a financial year (see sections 465 to 467) must deliver to the registrar a copy of—

(a) the company's annual accounts, [F415]...

[[F416](aa) the strategic report, and**]**

(b) the directors' report.

(2) They must also deliver to the registrar a copy of the auditor's report on those accounts (and on**[**[F417] the strategic report and**]** the directors' report).

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

[F418](3) . . . . . .

[F419](4) . . . . . .

(5) The copies of the balance sheet **[**[F420], strategic report**]** and directors' report delivered to the registrar under this section must state the name of the person who signed it on behalf of the board.

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

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

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

[[F421](6A) If more than one person is appointed as auditor, the reference in subsection (6)(a) to the name of the auditor is to be read as a reference to the names of all the auditors.**]**

[[F422](7) This section does not apply to companies within—

(a) section 444 (filing obligations of companies subject to the small companies regime), or

(b) section 444A (filing obligations of companies entitled to small companies exemption in relation to directors' report).**]**

Textual Amendments

F415 Word in s. 445(1)(a) omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 9(a)(i)**

F416 S. 445(1)(aa) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 9(a)(ii)**

F417 Words in s. 445(2) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 9(b)**

F418 S. 445(3) omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **8(4)** (with reg. 3)

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F419 S. 445(4) omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **8(5)** (with reg. 3)

F420 Words in s. 445(5) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 9(c)**

F421 S. 445(6A) inserted (with effect in accordance with reg. 2(3) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 10** (with reg. 2(6)(7))

F422 S. 445(7) substituted (6.4.2008) by The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (S.I. 2008/393), **reg. 6(8)**

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C731 Ss. 441-448 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C732 S. 445 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 18** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **13** and as further amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 6** (with reg. 2(6)(7)))

Commencement Information

I190 S. 445 wholly in force at 6.4.2008; s. 445 not in force at Royal Assent see s. 1300; s. 445 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 445 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 para. 6 and with savings in Sch. 4 paras. 6-8)

446 Filing obligations of unquoted companies

(1) The directors of an unquoted company must deliver to the registrar for each financial year of the company a copy of—

(a) the company's annual accounts, F423. . .

[F424(aa) the strategic report,**]**

(b) the directors' report**[**F425, F426...

[any directors' remuneration report, and**]**

F427(ba)

(c) any separate corporate governance statement.**]**

(2) The directors must also deliver to the registrar a copy of the auditor's report on those accounts (and **[**F428the strategic report (where this is covered by the auditor's report),**]** the directors' report**[**F429, any directors' remuneration report**][**F430and any separate corporate governance statement**]**).

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

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(3) The copies of the balance sheet**[**F431, strategic report**]****[**F432, directors' report**[**F433, any directors' remuneration report**]** and any separate corporate governance statement**]** delivered to the registrar under this section must state the name of the person who signed it on behalf of the board.

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

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

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

[F434(4A) If more than one person is appointed as auditor, the reference in subsection (4)(a) to the name of the auditor is to be read as a reference to the names of all the auditors.**]**

(5) This section does not apply to companies within—

(a) section 444 (filing obligations of companies subject to the small companies regime), F435. . .

[F436(aa) section 444A (filing obligations of companies entitled to small companies exemption in relation to directors' report), or**]**

(b) section 445 (filing obligations of medium-sized companies).

Textual Amendments

F423 Word following s. 446(1)(a) omitted (27.6.2009) by virtue of The Companies Act 2006 (Accounts, Reports and Audit) Regulations 2009 (S.I. 2009/1581), **reg. 3(2)** (with application as stated in reg. 1(3))

F424 S. 446(1)(aa) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 10(a)**

F425 S. 446(1)(c) and preceding word inserted (27.6.2009) by The Companies Act 2006 (Accounts, Reports and Audit) Regulations 2009 (S.I. 2009/1581), **reg. 3(2)** (with application as stated in reg. 1(3))

F426 Word in s. 446(1)(b) omitted (10.6.2019) by virtue of The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **22(a)(i)**

F427 S. 446(1)(ba) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **22(a)(ii)**

F428 Words in s. 446(2) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 10(b)**

F429 Words in s. 446(2) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **22(b)**

F430 Words in s. 446(2) inserted (27.6.2009) by The Companies Act 2006 (Accounts, Reports and Audit) Regulations 2009 (S.I. 2009/1581), **reg. 3(3)** (with application as stated in reg. 1(3))

F431 Words in s. 446(3) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 10(c)**

F432 Words in s. 446(3) substituted (27.6.2009) by The Companies Act 2006 (Accounts, Reports and Audit) Regulations 2009 (S.I. 2009/1581), **reg. 3(6)** (with application as stated in reg. 1(3))

F433 Words in s. 446(3) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **22(c)**

F434 S. 446(4A) inserted (with effect in accordance with reg. 2(3) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 11** (with reg. 2(6)(7))

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F435 Word in s. 446(5) omitted (6.4.2008) by virtue of The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (S.I. 2008/393), **reg. 6(9)**

F436 S. 446(5)(aa) inserted (6.4.2008) by The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (S.I. 2008/393), **reg. 6(9)(a)**

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C733 Ss. 441-448 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C734 S. 446 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 19 (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), 14); (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), Sch. 3 para. 7 (with reg. 2(6)(7)); (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **18**)

Commencement Information

I191 S. 446 wholly in force at 6.4.2008; s. 446 not in force at Royal Assent see s. 1300; s. 446 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 para. 8 (as amended (temp. from 27.6.2009) by Companies Act 2006 (Accounts, Reports and Audit) Regulations 2009 (S.I. 2009/1581), **reg. 3(4)(5)** (with application in accordance with reg. 1(3))) and with savings in Sch. 4 paras. 6-8)

447 Filing obligations of quoted companies

(1) The directors of a quoted company must deliver to the registrar for each financial year of the company a copy of—

(a) the company's annual accounts,

(b) the directors' remuneration report, [F437]. . .

[[F438](ba) the strategic report,**]**

(c) the directors' report.**[**[F439], and

(d) any separate corporate governance statement.**]**

(2) They must also deliver a copy of the auditor's report on those accounts (and on the directors' remuneration report**[**[F440]the strategic report (where this is covered by the auditor's report),**][**[F441], the directors' report and any separate corporate governance statement**]**).

(3) The copies of the balance sheet, the directors' remuneration report **[**[F442], the strategic report**][**[F443], the directors' report and any separate corporate governance statement**]** delivered to the registrar under this section must state the name of the person who signed it on behalf of the board.

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

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

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

[F444(5) If more than one person is appointed as auditor, the reference in subsection (4)(a) to the name of the auditor is to be read as a reference to the names of all the auditors.**]**

Textual Amendments

F437 Word at end of s. 447(1)(b) omitted (27.6.2009) by virtue of The Companies Act 2006 (Accounts, Reports and Audit) Regulations 2009 (S.I. 2009/1581), **reg. 4(2)** (with application as stated in reg. 1(3))

F438 S. 447(1)(ba) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 11(a)**

F439 S. 447(1)(d) and preceding word inserted (27.6.2009) by The Companies Act 2006 (Accounts, Reports and Audit) Regulations 2009 (S.I. 2009/1581), **reg. 4(2)** (with application as stated in reg. 1(3))

F440 Words in s. 447(2) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 11(b)**

F441 Words in s. 447(2) substituted (27.6.2009) by The Companies Act 2006 (Accounts, Reports and Audit) Regulations 2009 (S.I. 2009/1581), **reg. 4(3)** (with application as stated in reg. 1(3))

F442 Words in s. 447(3) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 11(c)**

F443 Words in s. 447(3) substituted (27.6.2009) by The Companies Act 2006 (Accounts, Reports and Audit) Regulations 2009 (S.I. 2009/1581), **reg. 4(6)** (with application as stated in reg. 1(3))

F444 S. 447(5) inserted (with effect in accordance with reg. 2(3) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 12** (with reg. 2(6)(7))

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C735 Ss. 441-448, 451-453 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C736 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I192 S. 447 wholly in force at 6.4.2008; s. 447 not in force at Royal Assent see s. 1300; s. 447 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 para. 9 (as amended (temp. from 27.6.2009) by Companies Act 2006 (Accounts, Reports and Audit) Regulations 2009 (S.I. 2009/1581), **reg. 3(4)(5)** (with application in accordance with reg. 1(3))) and with savings in Sch. 4 paras. 6-8)

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448 Unlimited companies exempt from obligation to file accounts

(1) The directors of an unlimited company are not required to deliver accounts and reports to the registrar in respect of a financial year if the following conditions are met.

(2) The conditions are that at no time during the relevant accounting reference period—

(a) has the company been, to its knowledge, a subsidiary undertaking of an undertaking which was then limited, or

(b) have there been, to its knowledge, exercisable by or on behalf of two or more undertakings which were then limited, rights which if exercisable by one of them would have made the company a subsidiary undertaking of it, or

(c) has the company been a parent company of an undertaking which was then limited.

The references above to an undertaking being limited at a particular time are to an undertaking (under whatever law established) the liability of whose members is at that time limited.

(3) The exemption conferred by this section does not apply if—

(a) the company is a banking or insurance company or the parent company of a banking or insurance group, or

[F445(b) each of the members of the company is—

(i) a limited company,

(ii) another unlimited company each of whose members is a limited company, F446 . . .

(iii) a Scottish partnership **[**F447which is not a limited partnership,**]** each of whose members is a limited company **[**F448, or

(iv) a Scottish partnership which is a limited partnership, each of whose general partners is a limited company.**]]**

[F449The references in paragraph (b) to a limited company, another unlimited company **[**F450, a Scottish partnership which is not a limited partnership or a Scottish partnership which is a limited partnership**]** include a comparable undertaking incorporated in or formed under the law of a country or territory outside the United Kingdom.**]**

(4) Where a company is exempt by virtue of this section from the obligation to deliver accounts—

(a) section 434(3) (requirements in connection with publication of statutory accounts: meaning of "statutory accounts") has effect with the substitution for the words "as required to be delivered to the registrar under section 441" of the words "as prepared in accordance with this Part and approved by the board of directors"; and

(b) section 435(1)(b) (requirements in connection with publication of non-statutory accounts: statement whether statutory accounts delivered) has effect with the substitution for the words from "whether statutory accounts" to "have been delivered to the registrar" of the words "that the company is exempt from the requirement to deliver statutory accounts".

[F451(5) In this section—

" general partner " means—

(a) in relation to a Scottish partnership which is a limited partnership, a person who is a general partner within the meaning of the Limited Partnerships Act 1907 F452 ; and

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(b) in relation to an undertaking incorporated in or formed under the law of any country or territory outside the United Kingdom and which is comparable to a Scottish partnership which is a limited partnership, a person comparable to such a general partner;

" limited partnership " means a partnership registered under the Limited Partnerships Act 1907; and the " relevant accounting reference period ", in relation to a financial year, means the accounting reference period by reference to which that financial year was determined. **]**

Textual Amendments

F445 S. 448(3)(b) substituted (6.4.2008) by The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (S.I. 2008/393), **reg. 13(a)**

F446 Word in s. 448(3)(b) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Companies and Partnerships (Accounts and Audit) Regulations 2013 (S.I. 2013/2005), regs. 1(1), **2(4)(a)** (with reg. 1(5)(6))

F447 Words in s. 448(3)(b)(iii) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Companies and Partnerships (Accounts and Audit) Regulations 2013 (S.I. 2013/2005), regs. 1(1), **2(4)(b)** (with reg. 1(5)(6))

F448 S. 448(3)(b)(iv) and word inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Companies and Partnerships (Accounts and Audit) Regulations 2013 (S.I. 2013/2005), regs. 1(1), **2(4)(c)** (with reg. 1(5)(6))

F449 Words in s. 448(3) inserted (6.4.2008) by The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (S.I. 2008/393), **reg. 13(b)**

F450 Words in s. 448(3) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Companies and Partnerships (Accounts and Audit) Regulations 2013 (S.I. 2013/2005), regs. 1(1), **2(5)** (with reg. 1(5)(6))

F451 S. 448(5) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Companies and Partnerships (Accounts and Audit) Regulations 2013 (S.I. 2013/2005), regs. 1(1), **2(6)** (with reg. 1(5)(6))

F452 1907 c.24.

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C737 Ss. 441-448 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C738 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

[F453 448A Dormant subsidiaries exempt from obligation to file accounts

(1) The directors of a company are not required to deliver a copy of the company's individual accounts to the registrar in respect of a financial year if—

(a) the company is a subsidiary undertaking,

(b) it has been dormant throughout the whole of that year, and

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(c) its parent undertaking is established under the law of **[**F454any part of the United Kingdom**]**.

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

(a) all members of the company must agree to the exemption in respect of the financial year in question,

(b) the parent undertaking must give a guarantee under section 448C in respect of that year,

(c) the company must be included in the consolidated accounts drawn up for that year or to an earlier date in that year by the parent undertaking in accordance with—

[F455(i) if the undertaking is a company, the requirements of this Part of this Act, or, if the undertaking is not a company, the legal requirements which apply to the drawing up of consolidated accounts for that undertaking, or**]**

(ii) **[**F456UK-adopted international accounting standards**]**,

(d) the parent undertaking must disclose in the notes to the consolidated accounts that the directors of the company are exempt from the requirement to deliver a copy of the company's individual accounts to the registrar by virtue of this section, and

(e) the directors of the company must deliver to the registrar within the period for filing the company's accounts and reports for that year—

(i) a written notice of the agreement referred to in subsection (2)(a),

(ii) the statement referred to in section 448C(1),

(iii) a copy of the consolidated accounts referred to in subsection (2)(c),

(iv) a copy of the auditor's report on those accounts, and

(v) a copy of the consolidated annual report drawn up by the parent undertaking.

Textual Amendments

F453 Ss. 448A-448C inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **11**

F454 Words in s. 448A(1)(c) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 13(a)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F455 S. 448A(2)(c)(i) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 13(b)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F456 Words in s. 448A(2)(c)(ii) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 13** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application

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in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C739 Ss. 448A-448C applied (with modifications) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 19A** (as inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **20(7)**) (as amended (17.5.2016) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **15**) and as amended (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 17** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

448B Companies excluded from the dormant subsidiaries exemption

(b) a company that—

(i) is an authorised insurance company, a banking company, an e-Money issuer, a MiFID investment firm or a UCITS management company, or

(ii) carries on insurance market activity, or

(c) a special register body as defined in section 117(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (c 52) or an employers' association as defined in section 122 of that Act or Article 4 of the Industrial Relations (Northern Ireland) Order 1992 (S.I. 1992/807) (NI 5).

Textual Amendments

F453 Ss. 448A-448C inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **11**

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C739 Ss. 448A-448C applied (with modifications) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 19A** (as inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **20(7)**) (as amended (17.5.2016) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **15**) and as amended (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 17** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

448C Dormant subsidiaries filing exemption: parent undertaking declaration of guarantee

(1) A guarantee is given by a parent undertaking under this section when the directors of the subsidiary company deliver to the registrar a statement by the parent undertaking that it guarantees the subsidiary company under this section.

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(2) The statement under subsection (1) must be authenticated by the parent undertaking and must specify—

(a) the name of the parent undertaking,

[F457(b) the registered number (if any) of the parent undertaking,**]**

F458(c) . . . . . .

(d) the name and registered number of the subsidiary company in respect of which the guarantee is being given,

(e) the date of the statement, and

(f) the financial year to which the guarantee relates.

(3) A guarantee given under this section has the effect that—

(a) the parent undertaking guarantees all outstanding liabilities to which the subsidiary company is subject at the end of the financial year to which the guarantee relates, until they are satisfied in full, and

(b) the guarantee is enforceable against the parent undertaking by any person to whom the subsidiary company is liable in respect of those liabilities.**]**

Textual Amendments

F453 Ss. 448A-448C inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **11**

F457 S. 448C(2)(b) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by S.I. 2019/145, **regs. 1(2)(b)** (as amended by S.I. 2020/523, regs. 1(2), **10**), 2, Sch. 2 para. 14(a) (as substituted by The Statutory Auditors, Third Country Auditors and International Accounting Standards (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1392), regs. 1(2), **10(b)**) (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F458 S. 448C(2)(c) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 14(b)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C739 Ss. 448A-448C applied (with modifications) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 19A** (as inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **20(7)**) (as amended (17.5.2016) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **15**) and as amended (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 17** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

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Requirements where abbreviated accounts delivered

[F459]449 Special auditor's report where abbreviated accounts delivered

. . . . . .

Textual Amendments

F459 S. 449 omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **8(8)** (with reg. 3)

[F460]450 Approval and signing of abbreviated accounts

. . . . . .

Textual Amendments

F460 S. 450 omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **8(9)** (with reg. 3)

Failure to file accounts and reports

451 Default in filing accounts and reports: offences

(1) If the requirements of section 441 (duty to file accounts and reports) are not complied with in relation to a company's accounts and reports for a financial year before the end of the period for filing those accounts and reports, every person who immediately before the end of that period was a director of the company commits an offence.

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

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

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding **[**[F461]one-tenth of level 5 on the standard scale**][**[F461]one-tenth of the greater of £5,000 or level 4 on the standard scale**]**.

Textual Amendments

F461 Words in s. 451(4) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(13)** (with reg. 5(1))

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Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C740 Ss. 451-453 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C741 S. 451 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 8(3)**

C742 S. 451 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 14(3)**

C743 S. 451 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 15(5)**

C744 S. 451 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 16(3)**

C745 S. 451 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 41** (with Sch. 8)

C746 S. 451 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 56** (with Sch. 8)

C747 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C748 Ss. 451-453 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 22 (as amended (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **19(3)-(5)**)

452 Default in filing accounts and reports: court order

(1) If—

(a) the requirements of section 441 (duty to file accounts and reports) are not complied with in relation to a company's accounts and reports for a financial year before the end of the period for filing those accounts and reports, and

(b) the directors of the company fail to make good the default within 14 days after the service of a notice on them requiring compliance,

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

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

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C748 Ss. 451-453 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 22 (as

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amended (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **19(3)-(5))**

C749 Ss. 451-453 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C750 S. 452 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 8(3)**

C751 S. 452 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 14(3)**

C752 S. 452 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 15(5)**

C753 S. 452 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 16(3)**

C754 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C755 S. 452 modified by S.I. 2002/3150 (N.I. 4) art. 25C(4)(g) (as inserted (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), reg. 1(2), **Sch. 4 para. 5** (with reg. 189))

C756 S. 452 modified by 1986 c. 46, s. 22H(4)(h) (as inserted (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), reg. 1(2), **Sch. 4 para. 3** (with reg. 189))

C757 S. 452 modified by 1986 c. 46, s. 22H(4)(g) (as inserted (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), reg. 1(2), **Sch. 4 para. 3** (with reg. 189))

C758 S. 452 modified by S.I. 2002/3150 (N.I. 4) art. 25C(4)(g) (as inserted (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), reg. 1(2), **Sch. 4 para. 5** (with reg. 189))

453 Civil penalty for failure to file accounts and reports

(1) Where the requirements of section 441 are not complied with in relation to a company's accounts and reports for a financial year before the end of the period for filing those accounts and reports, the company is liable to a civil penalty.

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

(2) The amount of the penalty shall be determined in accordance with regulations made by the Secretary of State by reference to—

(a) the length of the period between the end of the period for filing the accounts and reports in question and the day on which the requirements are complied with, and

(b) whether the company is a private or public company.

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

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

(5) Regulations under this section having the effect of increasing the penalty payable in any case are subject to affirmative resolution procedure.

Otherwise, the regulations are subject to negative resolution procedure.

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Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C748 Ss. 451-453 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 22 (as amended (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **19(3)-(5)**)

C759 Ss. 451-453 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C760 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I193 S. 453 wholly in force at 6.4.2008; s. 453 not in force at Royal Assent, see s. 1300; s. 453 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 453 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 6-8)

CHAPTER 11

REVISION OF DEFECTIVE ACCOUNTS AND REPORTS

Modifications etc. (not altering text)

C761 Pt. 15 Ch. 11 applied (with modifications) in part (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

Voluntary revision

454 Voluntary revision of accounts etc

(1) If it appears to the directors of a company that—

(a) the company's annual accounts,

(b) the directors' remuneration report or the directors' report, or

[F462(c) a strategic report of the company,**]**

did not comply with the requirements of this Act F463..., they may prepare revised accounts or a revised report or statement.

(2) Where copies of the previous accounts or report have been sent out to members, delivered to the registrar or (in the case of a public company) laid before the company in general meeting, the revisions must be confined to—

(a) the correction of those respects in which the previous accounts or report did not comply with the requirements of this Act F464..., and

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(b) the making of any necessary consequential alterations.

(3) The Secretary of State may make provision by regulations as to the application of the provisions of this Act in relation to—

(a) revised annual accounts,

(b) a revised directors' remuneration report or directors' report, or

[F465(c) a revised strategic report of the company.**]**

(4) The regulations may, in particular—

(a) make different provision according to whether the previous accounts **[**F466or report**]** are replaced or are supplemented by a document indicating the corrections to be made;

(b) make provision with respect to the functions of the company's auditor in relation to the revised accounts **[**F467or report**]** ;

(c) require the directors to take such steps as may be specified in the regulations where the previous accounts or report have been—

(i) sent out to members and others under section 423,

(ii) laid before the company in general meeting, or

(iii) delivered to the registrar,

or where a **[**F468strategic report and supplementary material**]** containing information derived from the previous accounts or report **[**F469have**]** been sent to members under section 426;

(d) apply the provisions of this Act (including those creating criminal offences) subject to such additions, exceptions and modifications as are specified in the regulations.

(5) Regulations under this section are subject to negative resolution procedure.

Textual Amendments

F462 S. 454(1)(c) substituted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 12(a)**

F463 Words in s. 454(1) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 14** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F464 Words in s. 454(2)(a) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 1 para. 14** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F465 S. 454(3)(c) substituted (6.8.2013 for specified purposes and otherwise with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), regs. 1(2)(3), **Sch. para. 12(b)**

F466 Words in s. 454(4)(a) substituted (6.8.2013 for specified purposes and otherwise with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), regs. 1(2)(3), **Sch. para. 12(c)(i)**

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F467 Words in s. 454(4)(b) substituted (6.8.2013 for specified purposes and otherwise with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), regs. 1(2)(3), **Sch. para. 12(c)(ii)**

F468 Words in s. 454(4)(c) substituted (6.8.2013 for specified purposes and otherwise with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), regs. 1(2)(3), **Sch. para. 12(c)(iii)**

F469 Word in s. 454(4)(c) substituted (6.8.2013 for specified purposes and otherwise with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), regs. 1(2)(3), **Sch. para. 12(c)(iii)**

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C762 S. 454 applied (6.4.2008) by S.I. 2005/1788, reg. 29 (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 242(4)** (with arts. 6, 11, 12))

C763 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C764 Ss. 454-456 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 23 (as amended: (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **21**; (with effect for financial years beginning on or after 6.4.2021) by The European Grouping of Territorial Cooperation and Limited Liability Partnerships etc. (Revocations and Amendments) (EU Exit) Regulations 2021 (S.I. 2021/153), regs. 1, **15(3)-(5)**; and (6.5.2021) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Reports) (Authorised Person) Order 2021 (S.I. 2021/465), arts. 1(2), **6(2)** (with art. 9))

C765 S. 454(4)(b) applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C766 S. 454(4)(b) applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

Commencement Information

I194 S. 454 wholly in force at 6.4.2008; s. 454 not in force at Royal Assent, see s. 1300; s. 454 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 454 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 6-8)

Secretary of State's notice

455 Secretary of State's notice in respect of accounts or reports

(1) This section applies where—

(a) copies of a company's annual accounts **[**[F470], strategic report or directors' report**]** have been sent out under section 423, or

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(b) a copy of a company's annual accounts **[**F471, strategic report or directors' report**]** has been delivered to the registrar or (in the case of a public company) laid before the company in general meeting,

and it appears to the Secretary of State that there is, or may be, a question whether the accounts or report comply with the requirements of this Act F472....

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

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

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

(a) given a satisfactory explanation of the accounts or report, or

(b) revised the accounts or report so as to comply with the requirements of this Act F473...,

the Secretary of State may apply to the court.

(5) The provisions of this section apply equally to revised annual accounts **[**F474, revised strategic reports and revised directors' reports**]**, in which case they have effect as if the references to revised accounts or reports were references to further revised accounts or reports.

Textual Amendments

F470 Words in s. 455(1)(a) substituted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 13(a)**

F471 Words in s. 455(1)(b) substituted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 13(a)**

F472 Words in s. 455(1) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 15** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F473 Words in s. 455(4)(b) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 15** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F474 Words in s. 455(5) substituted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 13(b)**

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C764 Ss. 454-456 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 23 (as

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amended: (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **21**; (with effect for financial years beginning on or after 6.4.2021) by The European Grouping of Territorial Cooperation and Limited Liability Partnerships etc. (Revocations and Amendments) (EU Exit) Regulations 2021 (S.I. 2021/153), regs. 1, **15(3)-(5)**; and (6.5.2021) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Reports) (Authorised Person) Order 2021 (S.I. 2021/465), arts. 1(2), **6(2)** (with art. 9))

C767 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Application to court

456 Application to court in respect of defective accounts or reports

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

(a) by the Secretary of State, after having complied with section 455, or

(b) by a person authorised by the Secretary of State for the purposes of this section,

for a declaration (in Scotland, a declarator) that the annual accounts of a company do not comply,**[**F475or a strategic report**]** or a directors' report does not comply, with the requirements of this Act F476... and for an order requiring the directors of the company to prepare revised accounts or a revised report.

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

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

(a) the auditing of the accounts,

(b) the revision of any directors' remuneration report, **[**F477strategic report and supplementary material or,**]** directors' report F478..., and

(c) the taking of steps by the directors to bring the making of the order to the notice of persons likely to rely on the previous accounts,

and such other matters as the court thinks fit.

(4) If the court orders the preparation of a revised **[**F479strategic report or**]** directors' report it may give directions as to—

(a) the review of the report by the auditors,

F480(b) . . . . . .

(c) the taking of steps by the directors to bring the making of the order to the notice of persons likely to rely on the previous report, and

(d) such other matters as the court thinks fit.

(5) If the court finds that the accounts or report did not comply with the requirements of this Act F481...it may order that all or part of—

(a) the costs (in Scotland, expenses) of and incidental to the application, and

(b) any reasonable expenses incurred by the company in connection with or in consequence of the preparation of revised accounts or a revised report,

are to be borne by such of the directors as were party to the approval of the defective accounts or report.

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

(6) Where the court makes an order under subsection (5) it shall have regard to whether the directors party to the approval of the defective accounts or report knew or ought to have known that the accounts or report did not comply with the requirements of this Act [F481]..., and it may exclude one or more directors from the order or order the payment of different amounts by different directors.

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

(8) The provisions of this section apply equally to revised annual accounts **[**[F482], revised strategic reports and revised directors' reports**]**, in which case they have effect as if the references to revised accounts or reports were references to further revised accounts or reports.

Textual Amendments

F475 Words in s. 456(1) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 14(a)**

F476 Words in s. 456(1) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 16** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F477 Words in s. 456(3)(b) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 14(b)**

F478 Words in s. 456(3)(b) omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 14(b)**

F479 Words in s. 456(4) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 14(c)(i)**

F480 S. 456(4)(b) omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 14(c)(ii)**

F481 Words in s. 456(5)(6) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 16** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F482 Words in s. 456(8) substituted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 14(d)**

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application

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in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C764 Ss. 454-456 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 23 (as amended: (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **21**; (with effect for financial years beginning on or after 6.4.2021) by The European Grouping of Territorial Cooperation and Limited Liability Partnerships etc. (Revocations and Amendments) (EU Exit) Regulations 2021 (S.I. 2021/153), regs. 1, **15(3)-(5)**; and (6.5.2021) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Reports) (Authorised Person) Order 2021 (S.I. 2021/465), arts. 1(2), **6(2)** (with art. 9))

C768 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C769 S. 456 modified by S.I. 2002/3150 (N.I. 4), art. 25C(4)(g) (as inserted (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), reg. 1(2), **Sch. 4 para. 5** (with reg. 189))

C770 S. 456 modified by 1986 c. 46, s. 22H(4)(g) (as inserted (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), reg. 1(2), **Sch. 4 para. 3** (with reg. 189))

C771 S. 456 modified by S.I. 2002/3150 (N.I. 4), art. 25C(4)(g) (as inserted (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), reg. 1(2), **Sch. 4 para. 5** (with reg. 189))

C772 S. 456 modified by 1986 c. 46, s. 22H(4)(h) (as inserted (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), reg. 1(2), **Sch. 4 para. 3** (with reg. 189))

C773 S. 456(1)(b) modified (2.7.2012) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Directors' Reports) (Authorised Person) Order 2012 (S.I. 2012/1439), **art. 8(2)**

457 Other persons authorised to apply to the court

(1) The Secretary of State may by order (an "authorisation order") authorise for the purposes of section 456 any person appearing to him—

(a) to have an interest in, and to have satisfactory procedures directed to securing, compliance by companies with the requirements of this Act [F483]... relating to accounts **[**[F484], strategic reports and directors' reports**]**,

(b) to have satisfactory procedures for receiving and investigating complaints about companies' annual accounts **[**[F485], strategic reports and directors' reports**]**, and

(c) otherwise to be a fit and proper person to be authorised.

(2) A person may be authorised generally or in respect of particular classes of case, and different persons may be authorised in respect of different classes of case.

(3) The Secretary of State may refuse to authorise a person if he considers that his authorisation is unnecessary having regard to the fact that there are one or more other persons who have been or are likely to be authorised.

(4) If the authorised person is an unincorporated association, proceedings brought in, or in connection with, the exercise of any function by the association as an authorised person may be brought by or against the association in the name of a body corporate whose constitution provides for the establishment of the association.

(5) An authorisation order may contain such requirements or other provisions relating to the exercise of functions by the authorised person as appear to the Secretary of State to be appropriate.

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No such order is to be made unless it appears to the Secretary of State that the person would, if authorised, exercise his functions as an authorised person in accordance with the provisions proposed.

(6) Where authorisation is revoked, the revoking order may make such provision as the Secretary of State thinks fit with respect to pending proceedings.

(7) An order under this section is subject to negative resolution procedure.

Textual Amendments

F483 Words in s. 457(1)(a) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 17** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F484 Words in s. 457(1)(a) substituted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 15**

F485 Words in s. 457(1)(b) substituted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 15**

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C774 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I195 S. 457 wholly in force at 6.4.2008; s. 457 not in force at Royal Assent, see s. 1300; s. 457 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 457 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 6-8)

458 Disclosure of information by tax authorities

(1) The Commissioners for Her Majesty's Revenue and Customs may disclose information to a person authorised under section 457 for the purpose of facilitating—

(a) the taking of steps by that person to discover whether there are grounds for an application to the court under section 456 (application in respect of defective accounts etc), or

(b) a decision by the authorised person whether to make such an application.

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

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Provided that, in the case of personal data **[**F486within the meaning of Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act)**]**, information is not to be disclosed in contravention of **[**F487the data protection legislation**]**.

(3) Information disclosed to an authorised person under this section—

(a) may not be used except in or in connection with—

(i) taking steps to discover whether there are grounds for an application to the court under section 456, or

(ii) deciding whether or not to make such an application,

or in, or in connection with, proceedings on such an application; and

(b) must not be further disclosed except—

(i) to the person to whom the information relates, or

(ii) in, or in connection with, proceedings on any such application to the court.

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

(a) he did not know, and had no reason to suspect, that the information had been disclosed under this section, or

(b) he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

[F488(6) Where an offence under this section is committed by a body corporate, every officer of the body who is in default also commits the offence. For this purpose—

(a) any person who purports to act as director, manager or secretary of the body is treated as an officer of the body, and

(b) if the body is a company, any shadow director is treated as an officer of the company.**]**

Textual Amendments

F486 Words in s. 458(2) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 121(a)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

F487 Words in s. 458(2) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 121(b)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

F488 S. 458(6) added (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 244** (with arts. 6, 11, 12))

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application

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in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C775 S. 458 modified (2.7.2012) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Directors' Reports) (Authorised Person) Order 2012 (S.I. 2012/1439), **art. 8(3)**

C776 Ss. 458-461 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 24** (as amended: (1.10.2009) by S.I. 2009/1804, regs. 2, 85, **Sch. 3 para. 16**; (1.4.2013) by S.I. 2013/472, **Sch. 2 para. 143(a)**; (1.8.2014) by S.I. 2014/1815, reg. 1(2), **Sch. para. 22**; (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by S.I. 2017/1164, reg. 1(2)(3), **Sch. 3 para. 8** (with reg. 2(6)(7)); (1.3.2017) by S.I. 2017/80, reg. 1, **Sch. para. 28**; (1.4.2019) by S.I. 2018/1155, regs. 2, **22**; (31.12.2020) by S.I. 2019/145, reg. 1(2)(c), **Sch. 3 para. 18**; 2020 c. 1, **Sch. 5 para. 1(1)**; (with effect for financial years beginning on or after 6.4.2021) by S.I. 2021/153, regs. 1, **16**; and (6.5.2021) by S.I. 2021/465), arts. 1(2), 6(3) (with art. 9))

Power of authorised person to require documents etc

459 Power of authorised person to require documents, information and explanations

(1) This section applies where it appears to a person who is authorised under section 457 that there is, or may be, a question whether a company's annual accounts **[**F489, strategic report or directors' report complies**]** comply with the requirements of this Act F490....

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

(a) discovering whether there are grounds for an application to the court under section 456, or

(b) deciding whether to make such an application.

(3) Those persons are—

(a) the company;

(b) any officer, employee, or auditor of the company;

(c) any persons who fell within paragraph (b) at a time to which the document or information required by the authorised person relates.

(4) If a person fails to comply with such a requirement, the authorised person may apply to the court.

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

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

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

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

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Textual Amendments

F489 Words in s. 459(1) substituted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 16**

F490 Words in s. 459(1) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 18** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C776 Ss. 458-461 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 24** (as amended: (1.10.2009) by S.I. 2009/1804, regs. 2, 85, **Sch. 3 para. 16**; (1.4.2013) by S.I. 2013/472, **Sch. 2 para. 143(a)**; (1.8.2014) by S.I. 2014/1815, reg. 1(2), **Sch. para. 22**; (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by S.I. 2017/1164, reg. 1(2)(3), **Sch. 3 para. 8** (with reg. 2(6)(7)); (1.3.2017) by S.I. 2017/80, reg. 1, **Sch. para. 28**; (1.4.2019) by S.I. 2018/1155, regs. 2, **22**; (31.12.2020) by S.I. 2019/145, reg. 1(2)(c), **Sch. 3 para. 18**; 2020 c. 1, **Sch. 5 para. 1(1)**; (with effect for financial years beginning on or after 6.4.2021) by S.I. 2021/153, regs. 1, **16**; and (6.5.2021) by S.I. 2021/465), arts. 1(2), 6(3) (with art. 9))

C777 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C778 S. 459 modified (2.7.2012) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Directors' Reports) (Authorised Person) Order 2012 (S.I. 2012/1439), **art. 8(3)**

460 Restrictions on disclosure of information obtained under compulsory powers

(1) This section applies to information (in whatever form) obtained in pursuance of a requirement or order under section 459 (power of authorised person to require documents etc) that relates to the private affairs of an individual or to any particular business.

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

(3) This does not apply—

(a) to disclosure permitted by section 461 (permitted disclosure of information obtained under compulsory powers), or

(b) to the disclosure of information that is or has been available to the public from another source.

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

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(a) he did not know, and had no reason to suspect, that the information had been disclosed under section 459, or

(b) he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

[F491(6) Where an offence under this section is committed by a body corporate, every officer of the body who is in default also commits the offence. For this purpose—

(a) any person who purports to act as director, manager or secretary of the body is treated as an officer of the body, and

(b) if the body is a company, any shadow director is treated as an officer of the company.**]**

Textual Amendments

F491 S. 460(6) added (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 245** (with arts. 6, 11, 12))

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C776 Ss. 458-461 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 24** (as amended: (1.10.2009) by S.I. 2009/1804, regs. 2, 85, **Sch. 3 para. 16**; (1.4.2013) by S.I. 2013/472, **Sch. 2 para. 143(a)**; (1.8.2014) by S.I. 2014/1815, reg. 1(2), **Sch. para. 22**; (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by S.I. 2017/1164, reg. 1(2)(3), **Sch. 3 para. 8** (with reg. 2(6)(7)); (1.3.2017) by S.I. 2017/80, reg. 1, **Sch. para. 28**; (1.4.2019) by S.I. 2018/1155, regs. 2, **22**; (31.12.2020) by S.I. 2019/145, reg. 1(2)(c), **Sch. 3 para. 18**; 2020 c. 1, **Sch. 5 para. 1(1)**; (with effect for financial years beginning on or after 6.4.2021) by S.I. 2021/153, regs. 1, **16**; and (6.5.2021) by S.I. 2021/465), arts. 1(2), 6(3) (with art. 9))

C779 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C780 S. 460 modified (2.7.2012) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Directors' Reports) (Authorised Person) Order 2012 (S.I. 2012/1439), **art. 8(3)**

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461 Permitted disclosure of information obtained under compulsory powers

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

(2) It does not apply to the disclosure of information for the purpose of facilitating the carrying out by the authorised person of his functions under section 456.

(3) It does not apply to disclosure to—

(a) the Secretary of State,

(b) the Department of Enterprise, Trade and Investment for Northern Ireland,

(c) the Treasury,

(d) the Bank of England,

[[F492](e) the Financial Conduct Authority,

(ea) the Prudential Regulation Authority, or**]**

(f) the Commissioners for Her Majesty's Revenue and Customs.

(4) It does not apply to disclosure—

[[F493](a) for the purpose of assisting the Financial Reporting Council Limited to exercise it functions under Part 42 of this Act;**]**

[[F494](aa) for the purpose of assisting the competent authority to exercise its functions under the Statutory Auditors and Third Country Auditors Regulations 2016 and under the Audit Regulation;**]**

(b) with a view to the institution of, or otherwise for the purposes of, disciplinary proceedings relating to the performance by an accountant or auditor of his professional duties;

(c) for the purpose of enabling or assisting the Secretary of State or the Treasury to exercise any of their functions under any of the following—

(i) the Companies Acts,

(ii) Part 5 of the Criminal Justice Act 1993 (c. 36) (insider dealing),

(iii) the Insolvency Act 1986 (c. 45) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)),

(iv) the Company Directors Disqualification Act 1986 (c. 46) or the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)),

(v) the Financial Services and Markets Act 2000 (c. 8);

(d) for the purpose of enabling or assisting the Department of Enterprise, Trade and Investment for Northern Ireland to exercise any powers conferred on it by the enactments relating to companies, directors' disqualification or insolvency;

(e) for the purpose of enabling or assisting the Bank of England to exercise its functions;

(f) for the purpose of enabling or assisting the Commissioners for Her Majesty's Revenue and Customs to exercise their functions;

(g) for the purpose of enabling or assisting the **[**[F495]Financial Conduct Authority or the Prudential Regulation Authority**]** to exercise its functions under any of the following—

(i) the legislation relating to friendly societies [F496]...,

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[F497(ia) the Credit Unions Act 1979,**]**

(ii) the Building Societies Act 1986 (c. 53),

(iii) Part 7 of the Companies Act 1989 (c. 40),

(iv) the Financial Services and Markets Act 2000;

[F498(v) the Co-operative and Community Benefit Societies Act 2014;**]** or

(h) in pursuance of any **[**F499retained**][**F500EU**]** obligation.

(5) It does not apply to disclosure to a body exercising functions of a public nature under legislation in any country or territory outside the United Kingdom that appear to the authorised person to be similar to his functions under section 456 for the purpose of enabling or assisting that body to exercise those functions.

(6) In determining whether to disclose information to a body in accordance with subsection (5), the authorised person must have regard to the following considerations—

(a) whether the use which the body is likely to make of the information is sufficiently important to justify making the disclosure;

(b) whether the body has adequate arrangements to prevent the information from being used or further disclosed other than—

(i) for the purposes of carrying out the functions mentioned in that subsection, or

(ii) for other purposes substantially similar to those for which information disclosed to the authorised person could be used or further disclosed.

(7) Nothing in this section authorises the making of a disclosure in contravention of **[**F501the data protection legislation**]**.

Textual Amendments

F492 S. 461(3)(e)(ea) and word substituted for s. 461(3)(e) and word (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 112(2)** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

F493 S. 461(4)(a) substituted (2.7.2012) by The Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 (S.I. 2012/1741), arts. 1(2), 3, **Sch. para. 2**

F494 S. 461(4)(aa) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 3(2)** (with reg. 1(10))

F495 Words in. 461(4)(g) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 112(3)** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

F496 Words in s. 461(4)(g)(i) omitted (1.8.2014) by virtue of Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 100(2)** (with Sch. 5)

F497 S. 461(4)(g)(ia) inserted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 100(3)** (with Sch. 5)

F498 S. 461(4)(g)(v) inserted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 100(4)** (with Sch. 5)

F499 Word in s. 461(4)(h) inserted (31.12.2020) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), reg. 1(2)(c), **Sch. 2 para. 15**; 2020 c. 1, Sch. 5 para. 1(1)

F500 S. 461(4)(h): term substituted (22.4.2011 with application in accordance with art. 3(3) of the amending S.I.) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), **art. 6(1)**

F501 Words in s. 461(7) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 122** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

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Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C776 Ss. 458-461 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 24** (as amended: (1.10.2009) by S.I. 2009/1804, regs. 2, 85, **Sch. 3 para. 16**; (1.4.2013) by S.I. 2013/472, **Sch. 2 para. 143(a)**; (1.8.2014) by S.I. 2014/1815, reg. 1(2), **Sch. para. 22**; (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by S.I. 2017/1164, reg. 1(2)(3), **Sch. 3 para. 8** (with reg. 2(6)(7)); (1.3.2017) by S.I. 2017/80, reg. 1, **Sch. para. 28**; (1.4.2019) by S.I. 2018/1155, regs. 2, **22**; (31.12.2020) by S.I. 2019/145, reg. 1(2)(c), **Sch. 3 para. 18**; 2020 c. 1, **Sch. 5 para. 1(1)**; (with effect for financial years beginning on or after 6.4.2021) by S.I. 2021/153, regs. 1, **16**; and (6.5.2021) by S.I. 2021/465), arts. 1(2), 6(3) (with art. 9))

C781 S. 461 modified (21.2.2009) by The Banking Act 2009 (Parts 2 and 3 Consequential Amendments) Order 2009 (S.I. 2009/317), **art. 6(1)(2)**

C782 S. 461 applied (with modifications) (8.2.2011) by The Investment Bank Special Administration Regulations 2011 (S.I. 2011/245), reg. 27, **Sch. 6 Pt. 2 para. 5(2)**

C783 S. 461 modified (2.7.2012) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Directors' Reports) (Authorised Person) Order 2012 (S.I. 2012/1439), **art. 8(3)**

462 Power to amend categories of permitted disclosure

(1) The Secretary of State may by order amend section 461(3), (4) and (5).

(2) An order under this section must not—

(a) amend subsection (3) of that section (UK public authorities) by specifying a person unless the person exercises functions of a public nature (whether or not he exercises any other function);

(b) amend subsection (4) of that section (purposes for which disclosure permitted) by adding or modifying a description of disclosure unless the purpose for which the disclosure is permitted is likely to facilitate the exercise of a function of a public nature;

(c) amend subsection (5) of that section (overseas regulatory authorities) so as to have the effect of permitting disclosures to be made to a body other than one that exercises functions of a public nature in a country or territory outside the United Kingdom.

(3) An order under this section is subject to negative resolution procedure.

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C784 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

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Commencement Information

I196 S. 462 wholly in force at 6.4.2008; s. 462 not in force at Royal Assent, see s. 1300; s. 462 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 462 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 6-8)

CHAPTER 12

SUPPLEMENTARY PROVISIONS

*Liability for false or misleading statements in reports **[**F502**and statements]***

Textual Amendments

F502 Words in s. 463 cross-heading inserted (with effect in accordance with reg. 2(3) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 13(c)** (with reg. 2(6)(7))

463 Liability for false or misleading statements in reports [F503and statements]

(1) The reports **[**F504and statements**]** to which this section applies are—

[F505(za) the strategic report,**]**

(a) the directors' report,

(b) the directors' remuneration report, and

F506(c) . . . . . .

[F507(d) any separate corporate governance statement.**]**

(2) A director of a company is liable to compensate the company for any loss suffered by it as a result of—

(a) any untrue or misleading statement in a report **[**F508or statement**]** to which this section applies, or

(b) the omission from a report **[**F508or statement**]** to which this section applies of anything required to be included in it.

(3) He is so liable only if—

(a) he knew the statement to be untrue or misleading or was reckless as to whether it was untrue or misleading, or

(b) he knew the omission to be dishonest concealment of a material fact.

(4) No person shall be subject to any liability to a person other than the company resulting from reliance, by that person or another, on information in a report **[**F509or statement**]** to which this section applies.

(5) The reference in subsection (4) to a person being subject to a liability includes a reference to another person being entitled as against him to be granted any civil remedy or to rescind or repudiate an agreement.

(6) This section does not affect—

(a) liability for a civil penalty, or

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(b) liability for a criminal offence.

Textual Amendments

F503 Words in s. 463 heading inserted (with effect in accordance with reg. 2(3) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 13(c)** (with reg. 2(6)(7))

F504 Words in s. 463(1) inserted (with effect in accordance with reg. 2(3) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 13(a)(i)** (with reg. 2(6)(7))

F505 S. 463(1)(za) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 17(a)**

F506 S. 463(1)(c) omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 17(b)**

F507 S. 463(1)(d) inserted (with effect in accordance with reg. 2(3) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 13(a)(ii)** (with reg. 2(6)(7))

F508 Words in s. 463(2) inserted (with effect in accordance with reg. 2(3) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 13(b)** (with reg. 2(6)(7))

F509 Words in s. 463(4) inserted (with effect in accordance with reg. 2(3) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 13(b)** (with reg. 2(6)(7))

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C785 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C786 S. 463 applied (with modifications) by S.I. 2008/1911, reg. 24A (as inserted (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), Sch. 3 para. 9 (with reg. 2(6)(7)); as amended (1.4.2019) by The Companies (Directors Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018 (S.I. 2018/1155), regs. 2, **24**)

Commencement Information

I197 S. 463 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(c)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5 para. 3)

Accounting and reporting standards

464 Accounting standards

(1) In this Part "accounting standards" means statements of standard accounting practice issued by such body or bodies as may be prescribed by regulations.

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(2) References in this Part to accounting standards applicable to a company's annual accounts are to such standards as are, in accordance with their terms, relevant to the company's circumstances and to the accounts.

(3) Regulations under this section may contain such transitional and other supplementary and incidental provisions as appear to the Secretary of State to be appropriate.

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C787 S. 464 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 25** (which amending provision was substituted (2.7.2012) by The Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 (S.I. 2012/1741), arts. 1(2), 3, **Sch. para. 8**)

C788 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C789 S. 464(2) applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

Commencement Information

I198 S. 464 wholly in force at 6.4.2008; s. 464 not in force at Royal Assent, see s. 1300; s. 464 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 464 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 6-8)

Companies qualifying as medium-sized

465 Companies qualifying as medium-sized: general

(1) A company qualifies as medium-sized in relation to its first financial year if the qualifying conditions are met in that year.

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

(a) if the qualifying conditions are met in that year and the preceding financial year;

(b) if the qualifying conditions are met in that year and the company qualified as medium-sized in relation to the preceding financial year;

(c) if the qualifying conditions were met in the preceding financial year and the company qualified as medium-sized in relation to that year.

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

1. Turnover	**[**[F510]Not more than £36 million**]**
2. Balance sheet total	**[**[F511]Not more than £18 million**]**
3. Number of employees	Not more than 250

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

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

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

(a) find for each month in the financial year the number of persons employed under contracts of service by the company in that month (whether throughout the month or not),

(b) add together the monthly totals, and

(c) divide by the number of months in the financial year.

(7) This section is subject to section 466 (companies qualifying as medium-sized: parent companies).

Textual Amendments

F510 Words in s. 465(3) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **9(2)(a)** (with reg. 3)

F511 Words in s. 465(3) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **9(2)(b)** (with reg. 3)

Modifications etc. (not altering text)

C790 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

C791 Ss. 465-467 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 26** (as amended: (with effect in accordance with reg. 1(2) of the amending S.I.) by S.I. 2013/2005, regs. 1(1), **3(3)** (with reg. 1(5)(6); (with effect in accordance with reg. 2(2)-(5) of the amending **S.I**.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), 17); (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **31(3)**; (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), Sch. 1 para. 58(5) (with reg. 1(3)-(8), **Sch. 1 para. 65**) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 19** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

466 Companies qualifying as medium-sized: parent companies

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

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

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

(a) if the qualifying conditions are met in that year and the preceding financial year;

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

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

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

1. Aggregate turnover	**[**F512Not more than £36 million net (or £43.2 million gross)**]**
2. Aggregate balance sheet total	**[**F513Not more than £18 million net (or £21.6 million gross)**]**
3. Aggregate number of employees	Not more than 250

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

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

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

(a) in the case of Companies Act accounts, in accordance with regulations under section 404,

(b) in the case of IAS accounts, in accordance with **[**F514UK-adopted international accounting standards**]**; and

"gross" means without those set-offs and other adjustments.

A company may satisfy any relevant requirement on the basis of either the net or the gross figure.

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

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

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

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

Textual Amendments

F512 Words in s. 466(4) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **9(3)(a)** (with reg. 3)

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F513 Words in s. 466(4) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **9(3)(b)** (with reg. 3)

F514 Words in s. 466(6) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 19** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C791 Ss. 465-467 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 26** (as amended: (with effect in accordance with reg. 1(2) of the amending S.I.) by S.I. 2013/2005, regs. 1(1), **3(3)** (with reg. 1(5)(6); (with effect in accordance with reg. 2(2)-(5) of the amending **S.I**.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), 17); (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **31(3)**; (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), Sch. 1 para. 58(5) (with reg. 1(3)-(8), **Sch. 1 para. 65**) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 19** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

467 Companies excluded from being treated as medium-sized

(1) A company is not entitled to take advantage of any of the provisions of this Part relating to companies qualifying as medium-sized if it was at any time within the financial year in question—

(a) a public company,

(b) a company that—

(i) has permission under **[**F515Part 4A**]** of the Financial Services and Markets Act 2000 (c. 8) to carry on a regulated activity, **[**F516or**]**

(ii) carries on insurance market activity, **[**F517or**]**

[F518(iii) is a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1), or**]**

[F519(ba) an e-money issuer,**]** or

(c) a member of an ineligible group.

(2) A group is ineligible if any of its members is—

[F520(a) a traded company,**]**

(b) a body corporate (other than a company) whose shares are admitted to trading on a **[**F521UK**]** regulated market,

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(c) a person (other than a small company) who has permission under **[**F522Part 4A**]** of the Financial Services and Markets Act 2000 to carry on a regulated activity,

[F523(ca) an e-money issuer,**]**

(d) a small company that is an authorised insurance company, a banking company, F524. . . **[**F525a MiFID investment firm**]** or a UCITS management company, **[**F526or**]**

(e) a person who carries on insurance market activity **[**F527or**]**

[F528(f) a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1).**]**

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

[F529(4) This section does not prevent a company from taking advantage of section 417(7) (business review: non-financial information) by reason only of its having been a member of an ineligible group at any time within the financial year in question.**]**

Textual Amendments

F515 Words in s. 467(1)(b)(i) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), Sch. 18 para. 113 (with Sch. 20); S.I. 2013/423, art. 3, Sch.

F516 Word in s. 467(1)(b)(i) omitted (E.W.S.) (1.10.2018) by virtue of The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **30(3)(a)(i)**

F517 Word in s. 467(1)(b)(ii) inserted (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **30(3)(a)(ii)**

F518 S. 467(1)(b)(iii) inserted (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **30(3)(a)(iii)**

F519 S. 467(1)(ba) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Companies and Partnerships (Accounts and Audit) Regulations 2013 (S.I. 2013/2005), regs. 1(1), **2(7)(a)** (with reg. 1(5)(6))

F520 S. 467(2)(a) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **9(4)** (with reg. 3)

F521 Word in s. 467(2)(b) inserted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 16** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F522 Words in s. 467(2)(c) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 113** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

F523 S. 467(2)(ca) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Companies and Partnerships (Accounts and Audit) Regulations 2013 (S.I. 2013/2005), regs. 1(1), **2(7)(b)** (with reg. 1(5)(6))

F524 S. 467(2)(d) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Companies and Partnerships (Accounts and Audit) Regulations 2013 (S.I. 2013/2005), regs. 1(1), **2(7)(c)** (with reg. 1(5)(6))

F525 Words in s. 467(2)(d) substituted (1.11.2007) by The Markets in Financial Instruments Directive (Consequential Amendments) Regulations 2007 (S.I. 2007/2932), **reg. 3(3)**

F526 Word in s. 467(2)(d) omitted (E.W.S.) (1.10.2018) by virtue of The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **30(3)(b)(i)**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F527 Word in s. 467(2)(e) inserted (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **30(3)(b)(ii)**

F528 S. 467(2)(f) inserted (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **30(3)(b)(iii)**

F529 S. 467(4) inserted (6.4.2008) by The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (S.I. 2008/393), **reg. 7**

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C791 Ss. 465-467 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 26** (as amended: (with effect in accordance with reg. 1(2) of the amending S.I.) by S.I. 2013/2005, regs. 1(1), **3(3)** (with reg. 1(5)(6); (with effect in accordance with reg. 2(2)-(5) of the amending **S.I**.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), 17); (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **31(3)**; (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), Sch. 1 para. 58(5) (with reg. 1(3)-(8), **Sch. 1 para. 65**) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 19** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), **10**, 11); 2020 c. 1, **Sch. 5 para. 1(1)**)

General power to make further provision about accounts and reports

468 General power to make further provision about accounts and reports

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

(a) the accounts and reports that companies are required to prepare;

(b) the categories of companies required to prepare accounts and reports of any description;

(c) the form and content of the accounts and reports that companies are required to prepare;

(d) the obligations of companies and others as regards—

(i) the approval of accounts and reports,

(ii) the sending of accounts and reports to members and others,

(iii) the laying of accounts and reports before the company in general meeting,

(iv) the delivery of copies of accounts and reports to the registrar, and

(v) the publication of accounts and reports.

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

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

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

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

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

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

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

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

The provisions of section 453(2) to (5) apply in relation to any such penalty.

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C792 S. 468 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 27**

C793 Ss. 418-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I199 S. 468 wholly in force at 6.4.2008; s. 468 not in force at Royal Assent, see s. 1300; s. 468 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 468 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 6-8)

Other supplementary provisions

[F530]469 Preparation and filing of accounts in euros

(1) The amounts set out in the annual accounts of a company may also be shown in the same accounts translated into euros.

(2) When complying with section 441 (duty to file accounts and reports), the directors of a company may deliver to the registrar an additional copy of the company's annual accounts in which the amounts have been translated into euros.

(3) In both cases—

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

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

[[F531](3A) Subsection (3)(b) does not apply to the Companies Act individual accounts of a company for a financial year in which the company qualifies as a micro-entity (see sections 384A and 384B).**]**

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

Status: *Point in time view as at 31/12/2020.*
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In the case of such a copy, references in those sections to the auditor's report on the company's annual accounts shall be read as references to the auditor's report on the annual accounts of which it is a copy.

Textual Amendments

F530 S. 469 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 28** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **18**)

F531 S. 469(3A) inserted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **7(2)** (with reg. 3)

Modifications etc. (not altering text)

C710 Ss. 441-469 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with reg. 7, Sch. 2) (as amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a)**)

C794 S. 469 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 3**

C795 S. 469 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

470 Power to apply provisions to banking partnerships

(1) The Secretary of State may by regulations apply to banking partnerships, subject to such exceptions, adaptations and modifications as he considers appropriate, the provisions of this Part (and of regulations made under this Part) applying to banking companies.

(2) A "banking partnership" means a partnership which has permission under **[**[F532]Part 4A**]** of the Financial Services and Markets Act 2000 (c. 8).

But a partnership is not a banking partnership if it has permission to accept deposits only for the purpose of carrying on another regulated activity in accordance with that permission.

(3) Expressions used in this section that are also used in the provisions regulating activities under the Financial Services and Markets Act 2000 have the same meaning here as they do in those provisions.

See section 22 of that Act, orders made under that section and Schedule 2 to that Act.

(4) Regulations under this section are subject to affirmative resolution procedure.

Textual Amendments

F532 Words in s. 470(2) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 114** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I200 S. 470 wholly in force at 6.4.2008; s. 470 not in force at Royal Assent, see s. 1300; s. 470 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 470 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 6-8)

471 Meaning of "annual accounts" and related expressions

(1) In this Part a company's "annual accounts", in relation to a financial year, means—

[F533(a) any individual accounts prepared by the company for that year (see section 394), and**]**

(b) any group accounts prepared by the company for that year (see **[**F534section**]** 399).

This is subject to section 408 (option to omit individual profit and loss account from annual accounts where information given in **[**F535notes to the individual balance sheet**]**).

(2) In the case of an unquoted company, its "annual accounts and reports" for a financial year are—

(a) its annual accounts,

[F536(aa) the strategic report (if any),**]**

[F537(ab) the directors' remuneration report (if any),**]**

(b) the directors' report, and

(c) the auditor's report on those accounts**[**F538, the strategic report (where this is covered by the auditor's report)**]** and the directors' report (unless the company is exempt from audit).

(3) In the case of a quoted company, its "annual accounts and reports" for a financial year are—

(a) its annual accounts,

(b) the directors' remuneration report,

[F539(ba) the strategic report (if any),**]**

(c) the directors' report, and

(d) the auditor's report on those accounts, on the auditable part of the directors' remuneration report**[**F540, on the strategic report (where this is covered by the auditor's report)**]** and on the directors' report.

Textual Amendments

F533 S. 471(1)(a) substituted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **18**

F534 Word in s. 471(1)(b) substituted (with application in accordance with reg. 1(2) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Non-Financial Reporting) Regulations 2016 (S.I. 2016/1245), regs. 1(1), **3(5)**

F535 Words in s. 471(1) substituted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **7(3)** (with reg. 3)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F536 S. 471(2)(aa) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 18(a)(i)**

F537 S. 471(2)(ab) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **23**

F538 Words in s. 471(2)(c) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 18(a)(ii)**

F539 S. 471(3)(ba) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 18(b)(i)**

F540 Words in s. 471(3)(d) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 18(b)(ii)**

Modifications etc. (not altering text)

C796 S. 471 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 42** (with Sch. 8)

C797 S. 471 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 57** (with Sch. 8)

C798 Ss. 471-474 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, Sch 1 para. 10 (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

C799 S. 471 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

C800 S. 471 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 29** (as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **20(10)** and as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **19**); (as amended (with effect in accordance with reg. 2(5)(b) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 10** (with reg. 2(6)(7)))

472 Notes to the accounts

F541(1) . . . . . .

[F542(1A) F543... In the case of a company which qualifies as a micro-entity in relation to a financial year (see sections 384A and 384B), the notes to the accounts for that year required by section 413 of this Act and regulation 5A of, and paragraph 57 of Part 3 of Schedule 1 to, the Small Companies and Groups (Accounts and Directors' Report) Regulations 2008 (S.I. 2008/409) must be included at the foot of the balance sheet. **]**

(2) References in this Part to a company's annual accounts, or to a balance sheet or profit and loss account, include notes to the accounts giving information which is required by any provision of this Act or **[**F544UK-adopted international accounting standards**]**, and required or allowed by any such provision to be given in a note to company accounts.

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Textual Amendments

F541 S. 472(1) omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **9(5)(a)** (with reg. 3)

F542 S. 472(1A) inserted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **7(4)** (with reg. 3)

F543 Word in s. 472(1A) omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **9(5)(b)** (with reg. 3)

F544 Words in s. 472(2) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 20** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C798 Ss. 471-474 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, Sch 1 para. 10 (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

C801 S. 472 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 42** (with Sch. 8)

C802 S. 472 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 57** (with Sch. 8)

C803 S. 472 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

C804 S. 472 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 30** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **20** and as amended (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 1 para. 58(6)** (with reg. 1(3)-(8), Sch. 1 para. 65) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(c)); 2020 c. 1, Sch. 5 para. 1(1))

[F545 472A Meaning of "corporate governance statement" etc

(1) In this Part " corporate governance statement " means the statement required by rules 7.2.1 to 7.2.11 in the Disclosure Rules and Transparency Rules sourcebook **[**F546 made by the Financial Conduct Authority **]** .

(2) Those rules were inserted by Annex C of the Disclosure Rules and Transparency Rules Sourcebook (Corporate Governance Rules) Instrument 2008 made by the Authority on 26th June 2008 (FSA 2008/32).

(3) A "separate" corporate governance statement means one that is not included in the directors' report.**]**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F545 S. 472A inserted (27.6.2009) by The Companies Act 2006 (Accounts, Reports and Audit) Regulations 2009 (S.I. 2009/1581), **reg. 5** (with application as stated in reg. 1(3))

F546 Words in s. 472A(1) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments) Order 2013 (S.I. 2013/636), art. 1(2), **Sch. para. 9(2)**

Modifications etc. (not altering text)

C798 Ss. 471-474 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, Sch 1 para. 10 (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

C805 Ss. 471-474 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

473 Parliamentary procedure for certain regulations under this Part

(1) This section applies to regulations under the following provisions of this Part—

section 396 (Companies Act individual accounts),

section 404 (Companies Act group accounts),

section 409 (information about related undertakings),

section 412 (information about directors' benefits: remuneration, pensions and compensation for loss of office),

section 416 (contents of directors' report: general),

section 421 (contents of directors' remuneration report),

section 444 (filing obligations of companies subject to small companies regime),

section 445 (filing obligations of medium-sized companies),

section 468 (general power to make further provision about accounts and reports).

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

(3) Regulations that—

(a) restrict the classes of company which have the benefit of any exemption, exception or special provision,

(b) require additional matter to be included in a document of any class, or

(c) otherwise render the requirements of this Part more onerous,

are subject to affirmative resolution procedure.

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

Modifications etc. (not altering text)

C798 Ss. 471-474 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, Sch 1 para. 10 (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

C806 S. 473 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 31**

C807 Ss. 471-474 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 10** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I201 S. 473 wholly in force at 6.4.2008; s. 473 not in force at Royal Assent, see s. 1300; s. 473 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 473 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 6-8)

474 Minor definitions

(1) In this Part—

"e-money issuer" **[**F547means—

(a) an electronic money institution, within the meaning of the Electronic Money Regulations 2011 (S.I. 2011/99), or**]**

(b) a person who has permission under **[**F548Part 4A**]** of the Financial Services and Markets Act 2000 (c. 8) to carry on the activity of issuing electronic money within the meaning of article 9B of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544);

"group" means a parent undertaking and its subsidiary undertakings;

F549 …

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

"international accounting standards" means the international accounting standards, within the meaning of **[**F550Article 2 of Regulation (EC) No. 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards**]**;

[F551"micro-entity minimum accounting item" means an item of information required by this Part or by regulations under this Part to be contained in the Companies Act individual accounts of a company for a financial year in relation to which it qualifies as a micro-entity (see sections 384A and 384B);

"micro-entity provisions" means any provisions of this Part, Part 16 or regulations under this Part relating specifically to the individual accounts of a company which qualifies as a micro-entity;**]**

F552 . . . . . .

[F553 "MiFID investment firm" means an investment firm within the meaning of **[**F554Article 2.1A of Regulation (EU) No. 600/2014**][**F555of the European Parliament and of the Council of 15 May 2014**]** on markets in financial instruments, other than—

(a) a company **[**F556which is exempted from the definition of "investment firm" by Schedule 3 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544),**][**F557and**]**

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(b) **[**F558a company which is an exempt investment firm as defined by regulation 8 (meaning of "exempt investment firm") of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017(S.I. 2017/701);**]**

"profit and loss account", in relation to a company that prepares IAS accounts, includes an income statement or other equivalent financial statement required to be prepared by **[**F559UK-adopted international accounting standards**]**;

[F560"qualified", in relation to an auditor's report, means that the report does not state the auditor's unqualified opinion that the accounts have been properly prepared in accordance with this Act;**]**

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

(a) article 25A (arranging regulated mortgage contracts),

(b) article 25B (arranging regulated home reversion plans),

(c) article 25C (arranging regulated home purchase plans),

(ca) **[**F561article 25E (arranging regulated sale and rent back agreements),**]**

(d) article 39A (assisting administration and performance of a contract of insurance),

(e) article 53A (advising on regulated mortgage contracts),

(f) article 53B (advising on regulated home reversion plans),

(g) article 53C (advising on regulated home purchase plans),

(ga) **[**F562article 53D (advising on regulated sale and rent back agreements),**]**

(h) article 21 (dealing as agent), article 25 (arranging deals in investments) or article 53 (advising on investments) where the activity concerns relevant investments that are not contractually based investments (within the meaning of article 3 of that Order), or

(i) article 64 (agreeing to carry on a regulated activity of the kind mentioned in paragraphs (a) to (h));

[F560"traded company" **[**F563, unless the context otherwise requires,**]** means a company any of whose transferable securities are admitted to trading on a **[**F564UK**]** regulated market;**]**

"turnover", in relation to a company, means the amounts derived from the provision of goods and services F565..., after deduction of—

(a) trade discounts,

(b) value added tax, and

(c) any other taxes based on the amounts so derived;

"UCITS management company" has the meaning given by the Glossary forming part of the Handbook made by the **[**F566Financial Conduct Authority**]** under the Financial Services and Markets Act 2000 (c. 8);

[F567"UK-adopted international accounting standards" means the international accounting standards which are adopted for use within the United Kingdom by virtue of Chapter 2 or 3 of Part 2 of the International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019.**]**

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(2) In the case of an undertaking not trading for profit, any reference in this Part to a profit and loss account is to an income and expenditure account.

References to profit and loss and, in relation to group accounts, to a consolidated profit and loss account shall be construed accordingly.**]**

Textual Amendments

F547 Words in definition of "e-money issuer" in s. 474 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Companies and Partnerships (Accounts and Audit) Regulations 2013 (S.I. 2013/2005), regs. 1(1), **2(8)** (with reg. 1(5)(6))

F548 Words in s. 474(1) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 115** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

F549 Words in s. 474(1) omitted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by virtue of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 21(a)** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F550 Words in s. 474(1) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 21(b)** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F551 Words in s. 474(1) inserted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **7(5)** (with reg. 3)

F552 S. 474(1): definition omitted (1.11.2007) by The Markets in Financial Instruments Directive (Consequential Amendments) Regulations 2007 (S.I. 2007/2932), **reg. 3(4)(a)**

F553 S. 474(1): definition inserted (1.11.2007) by The Markets in Financial Instruments Directive (Consequential Amendments) Regulations 2007 (S.I. 2007/2932), **reg. 3(4)(b)**

F554 Words in s. 474(1) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 17(a)(i)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F555 Words in s. 474(1) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (S.I. 2017/701), reg. 1(2)(3)(4)(6), **Sch. 4 para. 9(2)(a)** (with reg. 7)

F556 Words in s. 474(1) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 17(a)(ii)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F557 Word in s. 474(1) inserted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (S.I. 2017/701), reg. 1(2)(3)(4)(6), **Sch. 4 para. 9(2)(b)** (with reg. 7) (as amended ((2.1.2018) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) (No.2) Regulations 2017 (S.I. 2017/1255), regs. 2(a), **37**

F558 Words in s. 474(1) substituted (3.1.2018) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) (No.2) Regulations 2017 (S.I. 2017/1255), regs. 2(b), **7(2)(a)**

F559 Words in s. 474(1) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-

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Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 21(c)** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F560 Words in s. 474(1) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **9(6)(a)** (with reg. 3)

F561 S. 474(1): words in definition of "regulated activity" inserted (1.7.2009 for certain purposes otherwise 30.6.2010) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2009 (S.I. 2009/1342), **art. 26(a)**

F562 S. 474(1): words in definition of "regulated activity" inserted (1.7.2009 for certain purposes, otherwise 30.6.2010) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2009 (S.I. 2009/1342), **art. 26(b)**

F563 Words in s. 474(1) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **24**

F564 Word in s. 474(1) inserted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 17(b)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F565 Words in s. 474(1) omitted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by virtue of The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **9(6)(b)** (with reg. 3)

F566 Words in s. 474(1) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments) Order 2013 (S.I. 2013/636), art. 1(2), **Sch. para. 9(3)**

F567 Words in s. 474(1) inserted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 21(d)** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C798 Ss. 471-474 applied (with modifications) (1.10.2009) by S.I. 2009/2436, regs. 3-5, Sch 1 para. 10 (with reg. 7, Sch. 2) (and the said Sch. 1 para. 10 is amended (with application in accordance with reg. 1(3) of the amending S.I.) by The Unregistered Companies (Amendment) Regulations 2013 (S.I. 2013/1972), regs. 1(2), **2(2)(a))**

C808 S. 474 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 42** (with Sch. 8)

C809 S. 474 applied (with modifications) (1.10.2009) by The Overseas Companies Regulations 2009 (S.I. 2009/1801), **reg. 57** (with Sch. 8)

C810 S. 474 modified (2.7.2012) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Directors' Reports) (Authorised Person) Order 2012 (S.I. 2012/1439), **art. 8(4)**

C811 S. 474 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 32** (as amended (1.10.2009) by S.I. 2009/1804, regs. 2, 85, **Sch. 3 para. 15(3)**; as amended (1.4.2013) by S.I. 2013/472, Sch. 2 para. 143(b); as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **21**; as amended (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 1 para. 58(7)** (with reg. 1(3)-(8), Sch. 1 para. 65) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(c)); 2020 c. 1, Sch. 5 para. 1(1)); and as amended (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I.

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2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 20** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1))

PART 16

AUDIT

Modifications etc. (not altering text)

C812 Pt. 16 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **162**, 163 (with reg. 189)

C813 Pt. 16 excluded (8.4.2020) by Parliamentary Buildings (Restoration and Renewal) Act 2019 (c. 27), s. 14(2)(3), **Sch. 2 para. 9(9)**

C814 Pt. 16 excluded (S.) (26.11.2020) by The Companies Act 2006 (Scottish public sector companies to be audited by the Auditor General for Scotland) Order 2020 (S.S.I. 2020/402), arts. 1(1), **3**

C815 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

CHAPTER 1

REQUIREMENT FOR AUDITED ACCOUNTS

Modifications etc. (not altering text)

C816 Pt. 16 Ch. 1 applied (with modifications) (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), reg. 4, **Sch. para. 1** (with Sch. para. 11)

C817 Pt. 16 Ch. 1 applied (with modifications) (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **regs. 4**, 7, Sch. Pt. 1

C818 Pt. 16 Ch. 1 applied (with modifications) by S.I. 2008/565, reg. 3 (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 3** (with reg. 2(6)(7)))

Requirement for audited accounts

475 Requirement for audited accounts

(1) A company's annual accounts for a financial year must be audited in accordance with this Part unless the company—

(a) is exempt from audit under—

section 477 (small companies),

[[F568]section 479A (subsidiary companies)**]** or

section 480 (dormant companies);

or

(b) is exempt from the requirements of this Part under section 482 (non-profit-making companies subject to public sector audit).

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(2) A company is not entitled to any such exemption unless its balance sheet contains a statement by the directors to that effect.

(3) A company is not entitled to exemption under any of the provisions mentioned in subsection (1)(a) unless its balance sheet contains a statement by the directors to the effect that—

(a) the members have not required the company to obtain an audit of its accounts for the year in question in accordance with section 476, and

(b) the directors acknowledge their responsibilities for complying with the requirements of this Act with respect to accounting records and the preparation of accounts.

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

Textual Amendments

F568 Words in s. 475(1)(a) inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **6**

Modifications etc. (not altering text)

C819 S. 475 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 33** (as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **20(2)**)

C820 Ss. 475-481 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C821 S. 475 applied (with modifications) in part (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

C822 S. 475(1) applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 3**

476 Right of members to require audit

(1) The members of a company that would otherwise be entitled to exemption from audit under any of the provisions mentioned in section 475(1)(a) may by notice under this section require it to obtain an audit of its accounts for a financial year.

(2) The notice must be given by—

(a) members representing not less in total than 10% in nominal value of the company's issued share capital, or any class of it, or

(b) if the company does not have a share capital, not less than 10% in number of the members of the company.

(3) The notice may not be given before the financial year to which it relates and must be given not later than one month before the end of that year.

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Modifications etc. (not altering text)

C823 Ss. 475-481 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C824 S. 476 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

Exemption from audit: small companies

477 Small companies: conditions for exemption from audit

(1) A company that **[**F569qualifies as a small company in relation to**]** a financial year is exempt from the requirements of this Act relating to the audit of accounts for that year.

(2) F570. . . . . .

(3) F570. . . . . .

(4) For the purposes of this section—

(a) whether a company qualifies as a small company shall be determined in accordance with section 382(1) to (6), F571. . .

(b) F571. . . . . .

(5) This section has effect subject to—

section 475(2) and (3) (requirements as to statements to be contained in balance sheet),

section 476 (right of members to require audit),

section 478 (companies excluded from small companies exemption), and

section 479 (availability of small companies exemption in case of group company).

Textual Amendments

F569 Words in s. 477(1) substituted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **4(a)**

F570 S. 477(2)(3) omitted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by virtue of The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **4(b)**

F571 S. 477(4)(b) and preceding word omitted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by virtue of The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **4(c)**

Modifications etc. (not altering text)

C825 Ss. 475-481 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C826 Ss. 477-479 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 34** (as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I.

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2012/2301, regs. 1, **20(3)**, as amended (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **31(4)** and as amended (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **50(a)**; 2020 c. 1, **Sch. 5 para. 1(1)**)

478 Companies excluded from small companies exemption

A company is not entitled to the exemption conferred by section 477 (small companies) if it was at any time within the financial year in question—

(a) a public company,

(b) a company that—

(i) is an authorised insurance company, a banking company, an e-money issuer, **[**F572a MiFID investment firm**]** or a UCITS management company, **[**F573or**]**

(ii) carries on insurance market activity, or

[F574(iii) is a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1), or**]**

(c) a special register body as defined in section 117(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52) or an employers' association as defined in section 122 of that Act or Article 4 of the Industrial Relations (Northern Ireland) Order 1992 (S.I. 1992/807 (N.I. 5)).

Textual Amendments

F572 Words in s. 478(b)(i) substituted (1.11.2007) by The Markets in Financial Instruments Directive (Consequential Amendments) Regulations 2007 (S.I. 2007/2932), **reg. 3(5)**

F573 Word in s. 478(b)(i) omitted (E.W.S.) (1.10.2018) by virtue of The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **30(4)(a)**

F574 S. 478(b)(iii) inserted (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **30(4)(b)**

Modifications etc. (not altering text)

C826 Ss. 477-479 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 34** (as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **20(3)**, as amended (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **31(4)** and as amended (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **50(a)**; 2020 c. 1, **Sch. 5 para. 1(1)**)

C827 Ss. 475-481 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

479 Availability of small companies exemption in case of group company

(1) A company is not entitled to the exemption conferred by section 477 (small companies) in respect of a financial year during any part of which it was a group company unless—

[F575(a) the group—

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(i) qualifies as a small group in relation to that financial year, and

(ii) was not at any time in that year an ineligible group, or**]**

(b) subsection (3) applies.

(2) [F576] . . . . . .

(3) A company is not excluded by subsection (1) if, throughout the whole of the period or periods during the financial year when it was a group company, it was both a subsidiary undertaking and dormant.

(4) In this section—

(a) "group company" means a company that is a parent company or a subsidiary undertaking, and

(b) "the group", in relation to a group company, means that company together with all its associated undertakings.

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

(5) For the purposes of this section—

(a) whether a group qualifies as small shall be determined in accordance with section 383 (companies qualifying as small: parent companies);

(b) "ineligible group" has the meaning given by section 384(2) and (3);

(c) [F577] . . . . . .

(d) [F577] . . . . . .

(e) [F577] . . . . . .

(6) The provisions mentioned in subsection (5) apply for the purposes of this section as if all the bodies corporate in the group were companies.

Textual Amendments

F575 S. 479(1)(a) substituted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **5(a)**

F576 S. 479(2) omitted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by virtue of The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **5(b)**

F577 S. 479(5)(c)(d)(e) omitted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by virtue of The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **5(c)**

Modifications etc. (not altering text)

C826 Ss. 477-479 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 34**
(as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **20(3)**, as amended (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **31(4)** and as amended (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **50(a)**; 2020 c. 1, **Sch. 5 para. 1(1)**)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

C828 Ss. 475-481 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

[F578 Exemption from audit: qualifying subsidiaries

Textual Amendments

F578 Ss. 479A-479C and cross-heading inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **7**

479A Subsidiary companies: conditions for exemption from audit

(1) A company is exempt from the requirements of this Act relating to the audit of individual accounts for a financial year if—

(a) it is itself a subsidiary undertaking, and

(b) its parent undertaking is established under the law of **[**F579any part of the United Kingdom**]**.

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

(a) all members of the company must agree to the exemption in respect of the financial year in question,

(b) the parent undertaking must give a guarantee under section 479C in respect of that year,

(c) the company must be included in the consolidated accounts drawn up for that year or to an earlier date in that year by the parent undertaking in accordance with—

[F580(i) if the undertaking is a company, the requirements of Part 15 of this Act, or, if the undertaking is not a company, the legal requirements which apply to the drawing up of consolidated accounts for that undertaking, or**]**

(ii) **[**F581UK-adopted international accounting standards (within the meaning given by section 474(1))**]**,

(d) the parent undertaking must disclose in the notes to the consolidated accounts that the company is exempt from the requirements of this Act relating to the audit of individual accounts by virtue of this section, and

(e) the directors of the company must deliver to the registrar on or before the date that they file the accounts for that year—

(i) a written notice of the agreement referred to in subsection (2)(a),

(ii) the statement referred to in section 479C(1),

(iii) a copy of the consolidated accounts referred to in subsection (2)(c),

(iv) a copy of the auditor's report on those accounts, and

(v) a copy of the consolidated annual report drawn up by the parent undertaking.

(3) This section has effect subject to—

section 475(2) and (3) (requirements as to statements contained in balance sheet), and

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

section 476 (right of members to require audit).

Textual Amendments

F579 Words in s. 479A(1)(b) substituted (31.12.2020) by S.I. 2019/177, regs. 2, **4(a)** (as substituted by The Statutory Auditors, Third Country Auditors and International Accounting Standards (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1392), regs. 1(2), **4** (with transitional provisions in S.I. 2019/177, Sch. 4 paras. 1(za), **1A** as inserted by S.I. 2020/108, regs. 1(2)(a), **4**)); 2020 c. 1, **Sch. 5 para. 1(1)**

F580 S. 479A(2)(c)(i) substituted (31.12.2020) by S.I. 2019/177, regs. 2, **4(b)** (as substituted by The Statutory Auditors, Third Country Auditors and International Accounting Standards (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1392), regs. 1(2), **4** (with transitional provisions in S.I. 2019/177, **Sch. 4 para. 1(za)** as inserted by S.I. 2020/108, regs. 1(2)(a), **4(a)**)); 2020 c. 1, **Sch. 5 para. 1(1)**

F581 Words in s. 479A(2)(c)(ii) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2)(3), **Sch. 1 para. 22** (with reg. 1(4)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C829 Ss. 479A-479C applied (with modifications) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 34A** (as inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **20(4)**) (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **20**; as amended (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), Sch. 1 para. 58(8) (with reg. 1(4)-(8), **Sch. 1 para. 65**) (as amended by S.I. 2020/335, regs. 1, **3**, 4 and S.I. 2020/523, regs. 1(2), **22**, 25(c)); 2020 c. 1, **Sch. 5 para. 1(1)**; and as amended (31.12.2020) by The Statutory Auditors, Third Country Auditors and International Accounting Standards (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1392), regs. 1(2), **7**; 2020 c. 1, **Sch. 5 para. 1(1)**)

C830 S. 479A(1)(b) modified (31.12.2020) by S.I. 2019/177, **Sch. 4 para. 1A** (as inserted by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/108), regs. 1(2)(a), **4(b)**)

479B Companies excluded from the subsidiary companies audit exemption

A company is not entitled to the exemption conferred by section 479A (subsidiary companies) if it was at any time within the financial year in question—

[F582(a) a traded company as defined in section 474(1),**]**

(b) a company that—

(i) is an authorised insurance company, a banking company, an e-money issuer, a MiFID investment firm or a UCITS management company,**[**F583 or**]**

(ii) carries on insurance market activity, or

[F584(iii) is a scheme funder of a Master Trust scheme within the meanings given by section 39(1) of the Pension Schemes Act 2017 (interpretation of Part 1), or**]**

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(c) a special register body as defined in section 117(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (c 52) or an employers' association as defined in section 122 of that Act or Article 4 of the Industrial Relations (Northern Ireland) Order 1992 (S.I. 1992/807) (NI 5).

Textual Amendments

F582 S. 479B(a) substituted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **10(3)** (with reg. 3)

F583 Word in s. 479B(b)(i) omitted (E.W.S.) (1.10.2018) by virtue of The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **30(5)(a)**

F584 S. 479B(b)(iii) inserted (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **30(5)(b)**

Modifications etc. (not altering text)

C831 S. 479B amendment to earlier affecting provision S.I. 2008/1911, reg. 34A (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **31(5)**

C832 Ss. 479A, 479B, 479C applied (with modifications) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), reg. 34A (as inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, 20(4)) (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), 20)

479C Subsidiary companies audit exemption: parent undertaking declaration of guarantee

(1) A guarantee is given by a parent undertaking under this section when the directors of the subsidiary company deliver to the registrar a statement by the parent undertaking that it guarantees the subsidiary company under this section.

(2) The statement under subsection (1) must be authenticated by the parent undertaking and must specify—

(a) the name of the parent undertaking,

[[F585](b) the registered number (if any) of the parent undertaking,**]**

[F586](c) . . . . . .

(d) the name and registered number of the subsidiary company in respect of which the guarantee is being given,

(e) the date of the statement, and

(f) the financial year to which the guarantee relates.

(3) A guarantee given under this section has the effect that—

(a) the parent undertaking guarantees all outstanding liabilities to which the subsidiary company is subject at the end of the financial year to which the guarantee relates, until they are satisfied in full, and

(b) the guarantee is enforceable against the parent undertaking by any person to whom the subsidiary company is liable in respect of those liabilities.**]**

Status: *Point in time view as at 31/12/2020.*
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Textual Amendments

F585 S. 479C(2)(b) substituted (31.12.2020) by S.I. 2019/177, regs. 2, **4A(a)** (as substituted by The Statutory Auditors, Third Country Auditors and International Accounting Standards (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1392), regs. 1(2), **4**;) 2020 c. 1, **Sch. 5 para. 1(1)**

F586 S. 479C(2)(c) omitted (31.12.2020) by virtue of S.I. 2019/177, regs. 2, **4A(b)** (as substituted by The Statutory Auditors, Third Country Auditors and International Accounting Standards (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1392), regs. 1(2), **4**;) 2020 c. 1, **Sch. 5 para. 1(1)**

Modifications etc. (not altering text)

C833 Ss. 479A-479C applied (with modifications) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 34A** (as inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **20(4)**) (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **20** and as amended (31.12.2020) by The Statutory Auditors, Third Country Auditors and International Accounting Standards (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1392), regs. 1(2), **7**; 2020 c. 1, **Sch. 5 para. 1(1)**)

Exemption from audit: dormant companies

480 Dormant companies: conditions for exemption from audit

(1) A company is exempt from the requirements of this Act relating to the audit of accounts in respect of a financial year if—

(a) it has been dormant since its formation, or

(b) it has been dormant since the end of the previous financial year and the following conditions are met.

(2) The conditions are that the company—

(a) as regards its individual accounts for the financial year in question—

(i) is entitled to prepare accounts in accordance with the small companies regime (see sections 381 to 384), or

(ii) would be so entitled but for having been a public company or a member of an ineligible group, and

(b) is not required to prepare group accounts for that year.

(3) This section has effect subject to—

section 475(2) and (3) (requirements as to statements to be contained in balance sheet),

section 476 (right of members to require audit), and

section 481 (companies excluded from dormant companies exemption).

Modifications etc. (not altering text)

C834 Ss. 480, 481 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 35** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **23**)

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C835 Ss. 475-481 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C836 S. 480 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

481 Companies excluded from dormant companies exemption

A company is not entitled to the exemption conferred by section 480 (dormant companies) if it was at any time within the financial year in question a company that—

[F587(za) is a traded company as defined in section 474(1),**]**

(a) is an authorised insurance company, a banking company, an e-money issuer, **[**F588a MiFID investment firm**]** or a UCITS management company, or

(b) carries on insurance market activity.

Textual Amendments

F587 S. 481(za) inserted (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980), regs. 2(1), **10(4)** (with reg. 3)

F588 Words in s. 481(a) substituted (1.11.2007) by The Markets in Financial Instruments Directive (Consequential Amendments) Regulations 2007 (S.I. 2007/2932), **reg. 3(6)**

Modifications etc. (not altering text)

C837 Ss. 480, 481 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 35** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **23**)

C838 Ss. 475-481 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C839 S. 481 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

Companies subject to public sector audit

482 Non-profit-making companies subject to public sector audit

(1) The requirements of this Part as to audit of accounts do not apply to a company for a financial year if it is non-profit-making and its accounts—

[F589(a) are subject to audit by the Comptroller and Auditor General by virtue of an order under section 25(6) of the Government Resources and Accounts Act 2000;

(ab) are subject to audit by the Auditor General for Wales by virtue of—

(i) an order under section 144 of the Government of Wales Act 1998, or

(ii) paragraph 18 of Schedule 8 to the Government of Wales Act 2006;**]**

(b) are accounts—

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(i) in relation to which section 21 of the Public Finance and Accountability (Scotland) Act 2000 (asp 1) (audit of accounts: Auditor General for Scotland) applies, or

(ii) that are subject to audit by the Auditor General for Scotland by virtue of an order under section 483 (Scottish public sector companies: audit by Auditor General for Scotland); or

(c) are subject to audit by the Comptroller and Auditor General for Northern Ireland by virtue of an order under Article 5(3) of the Audit and Accountability (Northern Ireland) Order 2003 (S.I. 2003/418 (N.I. 5)).

(2) In the case of a company that is a parent company or a subsidiary undertaking, subsection (1) applies only if every group undertaking is non-profit-making.

(3) In this section "non-profit-making" has the same meaning as in**[**F590 Article 54 of the Treaty on the Functioning of the European Union**]**.

(4) This section has effect subject to section 475(2) (balance sheet to contain statement that company entitled to exemption under this section).

Textual Amendments

F589 S. 482(1)(a)(ab) substituted for s. 482(1)(a) (6.11.2009) by The Government of Wales Act 2006 (Consequential Modifications, Transitional Provisions and Saving) Order 2009 (S.I. 2009/2958), **art. 10(2)**

F590 Words in s. 482(3) substituted (1.8.2012) by The Treaty of Lisbon (Changes in Terminology or Numbering) Order 2012, art. 3(1), {Sch. Pt. 1} (with art. 2(2))

483 Scottish public sector companies: audit by Auditor General for Scotland

(1) The Scottish Ministers may by order provide for the accounts of a company having its registered office in Scotland to be audited by the Auditor General for Scotland.

(2) An order under subsection (1) may be made in relation to a company only if it appears to the Scottish Ministers that the company—

(a) exercises in or as regards Scotland functions of a public nature none of which relate to reserved matters (within the meaning of the Scotland Act 1998 (c. 46)), or

(b) is entirely or substantially funded from a body having accounts falling within paragraph (a) or (b) of subsection (3).

(3) Those accounts are—

(a) accounts in relation to which section 21 of the Public Finance and Accountability (Scotland) Act 2000 (asp 1) (audit of accounts: Auditor General for Scotland) applies,

(b) accounts which are subject to audit by the Auditor General for Scotland by virtue of an order under this section.

(4) An order under subsection (1) may make such supplementary or consequential provision (including provision amending an enactment) as the Scottish Ministers think expedient.

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(5) An order under subsection (1) shall not be made unless a draft of the statutory instrument containing it has been laid before, and approved by resolution of, the Scottish Parliament.

Commencement Information

I202 S. 483 wholly in force at 6.4.2008; s. 483 not in force at Royal Assent, see s. 1300; s. 473 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 483 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 9-19)

General power of amendment by regulations

484 General power of amendment by regulations

(1) The Secretary of State may by regulations amend this Chapter or section 539 (minor definitions) so far as applying to this Chapter by adding, altering or repealing provisions.

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

(3) Regulations under this section imposing new requirements, or rendering existing requirements more onerous, are subject to affirmative resolution procedure.

(4) Other regulations under this section are subject to negative resolution procedure.

Modifications etc. (not altering text)

C840 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I203 S. 484 wholly in force at 6.4.2008; s. 484 not in force at Royal Assent, see s. 1300; s. 484 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 484 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 9-19)

Status: *Point in time view as at 31/12/2020.*
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CHAPTER 2

APPOINTMENT OF AUDITORS

Private companies

485 Appointment of auditors of private company: general

(1) An auditor or auditors of a private company must be appointed for each financial year of the company, unless the directors reasonably resolve otherwise on the ground that audited accounts are unlikely to be required.

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

(a) the end of the time allowed for sending out copies of the company's annual accounts and reports for the previous financial year (see section 424), or

(b) if earlier, the day on which copies of the company's annual accounts and reports for the previous financial year are sent out under section 423.

This is the "period for appointing auditors".

(3) The directors may appoint an auditor or auditors of the company—

(a) at any time before the company's first period for appointing auditors,

(b) following a period during which the company (being exempt from audit) did not have any auditor, at any time before the company's next period for appointing auditors, or

(c) to fill a casual vacancy in the office of auditor.

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

(a) during a period for appointing auditors,

(b) if the company should have appointed an auditor or auditors during a period for appointing auditors but failed to do so, or

(c) where the directors had power to appoint under subsection (3) but have failed to make an appointment.

(5) An auditor or auditors of a private company may only be appointed—

(a) in accordance with this section, or

(b) in accordance with section 486 **[**[F591]or 486A**]** (default power of Secretary of State).

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

Textual Amendments

F591 Words in s. 485(5)(b) inserted (with effect in accordance with reg. 2(3) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 14** (with reg. 2(6)(7))

Modifications etc. (not altering text)

C841 Ss. 485-488 applied (with modifications) (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), reg. 4, **Sch. para. 9** (with Sch. para. 11)

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C842 Ss. 485-488 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 36**; (as amended: (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 11** (with reg. 2(6)(7)); and (with effect for financial years beginning on or after 6.4.2021) by The European Grouping of Territorial Cooperation and Limited Liability Partnerships etc. (Revocations and Amendments) (EU Exit) Regulations 2021 (S.I. 2021/153), regs. 1, **18**)

C843 S. 485 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 6(1)(2)(4)**

C844 S. 485 applied (with modifications) (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), reg. {7(1)}, Sch. para. 1 (with Sch. para. 11)

C845 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C846 S. 485 applied (with modifications) by S.I. 2008/565, reg. 6(1)(1A) (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 6(a)** (with reg. 2(6)(7)))

Commencement Information

I204 S. 485 wholly in force at 1.10.2007; s. 485 not in force at Royal Assent see s. 1300; s. 485 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(h)** (with savings in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

[F592 485A Appointment of auditors of private company: additional requirements for public interest entities with audit committees

(1) This section applies to the appointment under section 485(4) of an auditor or auditors of a private company—

(a) which is also a public interest entity; and

(b) which has an audit committee.

(2) But it does not apply to the appointment of an Auditor General as auditor or one of the auditors of the company.

(3) Before an appointment to which this section applies is made—

(a) the audit committee of the company must make a recommendation to the directors in connection with the appointment, and

(b) the directors must propose an auditor or auditors for appointment F593...

(4) Before the audit committee makes a recommendation or the directors make a proposal under subsection (3), the committee F594... must carry out a selection procedure in accordance with Article 16(3) of the Audit Regulation , unless the company is a small or medium sized enterprise within the meaning in Article 2(1)(f) of Directive 2003/71/EC .

(5) The audit committee must in its recommendation—

(a) identify its first and second choice candidates for appointment, **[**F595drawn from those auditors who have participated in a selection procedure under subsection (4),**]**

(b) give reasons for the choices so identified,

(c) state that—

(i) the recommendation is free from influence by a third party, and

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(ii) no contractual term of the kind mentioned in Article 16(6) of the Audit Regulation has been imposed on the company.

[[F596](6) The directors must include in their proposal—

(a) the recommendation made by the audit committee in connection with the appointment, and

(b) if the proposal of the directors departs from the preference of the audit committee—

(i) a recommendation for a candidate or candidates for appointment drawn from those auditors who have participated in a selection procedure under subsection (4), and

(ii) the reasons for not following the audit committee's recommendation.

(7) Where the audit committee recommends re-appointment of the company's existing auditor or auditors, and the directors are in agreement, subsections (4) and (5)(a) and (b) do not apply.**]**

Textual Amendments

F592 Ss. 485A, 485B inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 4** (with reg. 1(12))

F593 Words in s. 485A(3)(b) omitted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(2)(a)**

F594 Words in s. 485A(4) omitted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(2)(b)**

F595 Words in s. 485A(5)(a) inserted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(2)(c)**

F596 S. 485A(6)(7) substituted for s. 485A(6)-(8) (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(2)(d)**

Modifications etc. (not altering text)

C847 S. 485A applied (with modifications) by S.I. 2008/565, reg. 6(1)(1A) (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 6(a)** (with reg. 2(6)(7)))

485B Appointment of auditors of private company: additional requirements for public interest entities without audit committees

(1) This section applies to the appointment under section 485(4) of an auditor or auditors of a private company—

(a) which is also a public interest entity; and

(b) which does not have an audit committee.

(2) But it does not apply to the appointment of an Auditor General as auditor or one of the auditors of the company.

(3) Before an appointment to which this section applies is made the directors must propose an auditor or auditors for appointment.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Before the directors make a proposal under subsection (3), they must carry out a selection procedure in accordance with Article 16(3) of the Audit Regulation , **[**[F597]from which their proposed auditor or auditors must be drawn,**]** unless the company is a small or medium sized enterprise within the meaning in Article 2(1)(f) of Directive 2003/71/EC .

[[F598](5) Subsection (4) does not apply in relation to a proposal to re-appoint the company's existing auditor or auditors.**]]**

Textual Amendments

F592 Ss. 485A, 485B inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 4** (with reg. 1(12))

F597 Words in s. 485B(4) inserted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(3)(a)**

F598 S. 485B(5) substituted for s. 485B(5)-(7) (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(3)(b)**

Modifications etc. (not altering text)

C848 S. 485B applied (with modifications) by S.I. 2008/565, reg. 6(1)(1A) (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 6(a)** (with reg. 2(6)(7)))

[[F599]485C Restriction on appointment of auditor of private company which is a public interest entity

(1) A person who has been, or will have been, auditor of a private company which is a public interest entity for every financial year comprised in the maximum engagement period (see section 494ZA) may not be appointed as auditor of the company for any financial year which begins within the period of 4 years beginning with the day after the last day of the last financial year of the maximum engagement period.

(2) A person who is a member of the same network as the auditor mentioned in subsection (1) may not be appointed as auditor of the company for any financial year which begins within the period of 4 years mentioned in that subsection.

(3) This section does not apply in relation to an Auditor General.**]**

Textual Amendments

F599 S. 485C inserted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(4)**

Modifications etc. (not altering text)

C849 S. 485C applied (with modifications) by S.I. 2008/565, reg. 6(1)(1A) (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 6(a)** (with reg. 2(6)(7)))

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

486 Appointment of auditors of private company: default power of Secretary of State

(1) If a private company fails to appoint an auditor or auditors in accordance with section 485[F600]... the Secretary of State may appoint one or more persons to fill the vacancy.

(2) Where subsection (2) of **[**[F601]section 485**]** applies and the company fails to make the necessary appointment before the end of the period for appointing auditors, the company must within one week of the end of that period give notice to the Secretary of State of his power having become exercisable.

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

(a) the company, and

(b) every officer of the company who is in default.

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

Textual Amendments

F600 Words in s. 486(1) omitted (with effect in accordance with reg. 2(3) of the amending S.I.) by virtue of The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 15** (with reg. 2(6)(7))

F601 Words in s. 486(2) substituted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(5)**

Modifications etc. (not altering text)

C850 Ss. 485-488 applied (with modifications) (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), reg. 4, **Sch. para. 9**

C851 Ss. 485-488 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 36**; (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 11** (with reg. 2(6)(7))

C852 S. 486 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 6(1)(2)(4)**

C853 S. 486 applied (with modifications) (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), **reg. 7(1)**, Sch. para. 1 (with Sch. para. 11)

C854 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C855 S. 486 applied (with modifications) by S.I. 2008/565, reg. 6(1)(1A) (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 6(a)** (with reg. 2(6)(7)))

Commencement Information

I205 S. 486 wholly in force at 1.10.2007; s. 486 not in force at Royal Assent see s. 1300; s. 486 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(h)** (with savings in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

[F602 486A Defective appointments: default power of Secretary of State

(1) If—

(a) a private company appoints, or purports to appoint, an auditor or auditors, and

(b) the appointment or purported appointment is made in breach of section 485A, 485B or 485C (requirements applying to appointment of auditors by public interest entities),

the Secretary of State may appoint another auditor or auditors in place of the auditor or auditors referred to in paragraph (a).

(2) The breach of section 485A, 485B or 485C does not invalidate any report made under Chapter 3 of this Part by the auditor or auditors on the company's annual reports or accounts before the auditor or auditors are replaced under subsection (1) of this section.

(3) But where the breach in question is a breach of section 485C, sections 1248 and 1249 (Secretary of State's power to require second audit) apply as if the auditor was not an appropriate person, or the auditors were not appropriate persons, for the period during which the audit was conducted.

(4) Within one week of becoming aware of the breach of section 485A, 485B or 485C, the company must give notice to the Secretary of State that the power under subsection (1) of this section has become exercisable.

(5) If the company fails to give the notice required by subsection (4), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

Textual Amendments

F602 S. 486A inserted (with effect in accordance with reg. 2(3) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 16** (with reg. 2(6)(7))

Modifications etc. (not altering text)

C856 S. 486A applied (with modifications) by S.I. 2008/565, reg. 6(1)(1A) (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 6(a)** (with reg. 2(6)(7)))

487 Term of office of auditors of private company

(1) An auditor or auditors of a private company hold office in accordance with the terms of their appointment, subject to the requirements that—

(a) they do not take office until any previous auditor or auditors cease to hold office, and

(b) they cease to hold office at the end of the next period for appointing auditors unless re-appointed.

F603(1A) . . . . . .

Status: *Point in time view as at 31/12/2020.*
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F603(1B) . . . . . .

F603(1C) . . . . . .

F603(1D) . . . . . .

F603(1E) . . . . . .

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

(a) he was appointed by the directors, or

(b) the company's articles require actual re-appointment, or

(c) the deemed re-appointment is prevented by the members under section 488, or

(d) the members have resolved that he should not be re-appointed, or

(e) the directors have resolved that no auditor or auditors should be appointed for the financial year in question or

[F604(f) the auditor's appointment would be in breach of section 485C.**]**

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

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

Textual Amendments

F603 S. 487(1A)-(1E) omitted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(6)(a)**

F604 S. 487(2)(f) substituted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(6)(b)**

Modifications etc. (not altering text)

C857 Ss. 485-488 applied (with modifications) (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), reg. 4, **Sch. para. 9**

C858 Ss. 485-488 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 36**; (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 11** (with reg. 2(6)(7))

C859 S. 487 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 6(1)(2)(4)**

C860 S. 487 applied (with modifications) (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), **reg. 7(1)**, Sch. para. 1 (with Sch. para. 11)

C861 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C862 S. 487 applied (with modifications) by S.I. 2008/565, reg. 6(1)(1A) (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 6(a)** (with reg. 2(6)(7)))

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Commencement Information

I206 S. 487 wholly in force at 1.10.2007; s. 487 not in force at Royal Assent see s. 1300; s. 487 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(h)** (with savings in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

[F605]487A Maximum engagement period: transitional arrangements

. . . . . .

Textual Amendments

F605 S. 487A omitted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(7)**

488 Prevention by members of deemed re-appointment of auditor

(1) An auditor of a private company is not deemed to be re-appointed under section 487(2) if the company has received notices under this section from members representing at least the requisite percentage of the total voting rights of all members who would be entitled to vote on a resolution that the auditor should not be re-appointed.

(2) The "requisite percentage" is 5%, or such lower percentage as is specified for this purpose in the company's articles.

(3) A notice under this section—

(a) may be in hard copy or electronic form,

(b) must be authenticated by the person or persons giving it, and

(c) must be received by the company before the end of the accounting reference period immediately preceding the time when the deemed re-appointment would have effect.

Modifications etc. (not altering text)

C863 Ss. 485-488 applied (with modifications) (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), reg. 4, **Sch. para. 9**

C864 Ss. 485-488 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 36**; (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 11** (with reg. 2(6)(7))

C865 S. 488 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 6(1)(2)(4)**

C866 S. 488 applied (with modifications) (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), **reg. 7(1)**, Sch. para. 1 (with Sch. para. 11)

C867 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C868 S. 488 applied (with modifications) by S.I. 2008/565, reg. 6(1)(1A) (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 6(a)** (with reg. 2(6)(7)))

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Commencement Information

I207 S. 488 wholly in force at 1.10.2007; s. 488 not in force at Royal Assent see s. 1300; s. 488 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(h)** (with savings in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

Public companies

489 Appointment of auditors of public company: general

(1) An auditor or auditors of a public company must be appointed for each financial year of the company, unless the directors reasonably resolve otherwise on the ground that audited accounts are unlikely to be required.

(2) For each financial year for which an auditor or auditors is or are to be appointed (other than the company's first financial year), the appointment must be made before the end of the accounts meeting of the company at which the company's annual accounts and reports for the previous financial year are laid.

(3) The directors may appoint an auditor or auditors of the company—

(a) at any time before the company's first accounts meeting;

(b) following a period during which the company (being exempt from audit) did not have any auditor, at any time before the company's next accounts meeting;

(c) to fill a casual vacancy in the office of auditor.

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

(a) at an accounts meeting;

(b) if the company should have appointed an auditor or auditors at an accounts meeting but failed to do so;

(c) where the directors had power to appoint under subsection (3) but have failed to make an appointment.

(5) An auditor or auditors of a public company may only be appointed—

(a) in accordance with this section, or

(b) in accordance with section 490 **[**F606or 490A**]** (default power of Secretary of State).

Textual Amendments

F606 Words in s. 489(5)(b) inserted (with effect in accordance with reg. 2(3) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 17** (with reg. 2(6)(7))

Modifications etc. (not altering text)

C869 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

[F607 489A Appointment of auditors of public company: additional requirements for public interest entities with audit committees

(1) This section applies to the appointment under section 489(4) of an auditor or auditors of a public company—

(a) which is also a public interest entity; and

(b) which has an audit committee.

(2) But it does not apply to the appointment of an Auditor General as auditor or one of the auditors of the company.

(3) Before an appointment to which this section applies is made—

(a) the audit committee of the company must make a recommendation to the directors in connection with the appointment, and

(b) the directors must propose an auditor or auditors for appointment F608...

(4) Before the audit committee makes a recommendation or the directors make a proposal under subsection (3), the committee F609... must carry out a selection procedure in accordance with Article 16(3) of the Audit Regulation , unless the company is—

(a) a small or medium sized enterprise within the meaning in Article 2(1)(f) of Directive 2003/71/EC ; or

(b) a company with reduced market capitalisation within the meaning in Article 2(1)(t) of that Directive.

(5) The audit committee must in its recommendation—

(a) identify its first and second choice candidates for appointment, [F610 drawn from those auditors who have participated in a selection procedure under subsection (4),]

(b) give reasons for the choices so identified,

(c) state that—

(i) the recommendation is free from influence by a third party, and

(ii) no contractual term of the kind mentioned in Article 16(6) of the Audit Regulation has been imposed on the company.

[F611 (6) The directors must include in their proposal—

(a) the recommendation made by the audit committee in connection with the appointment, and

(b) if the proposal of the directors departs from the preference of the audit committee—

(i) a recommendation for a candidate or candidates for appointment drawn from those auditors who have participated in a selection procedure under subsection (4), and

(ii) the reasons for not following the audit committee's recommendation.

(7) Where the audit committee recommends re-appointment of the company's existing auditor or auditors, and the directors are in agreement, subsections (4) and (5)(a) and (b) do not apply.]

Textual Amendments

F607 Ss. 489A 489B inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 8** (with reg. 1(12))

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F608 Words in s. 489A(3)(b) omitted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(8)(a)**

F609 Words in s. 489A(4) omitted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(8)(b)**

F610 Words in s. 489A(5)(a) inserted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(8)(c)**

F611 S. 489A(6)(7) substituted for s. 489A(6)-(8) (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(8)(d)**

489B Appointment of auditors of public company: additional requirements for public interest entities without audit committees

(1) This section applies to the appointment under section 489(4) of an auditor or auditors of a public company—

(a) which is also a public interest entity; and

(b) which does not have an audit committee.

(2) But it does not apply to the appointment of an Auditor General as auditor or one of the auditors of the company.

(3) Before an appointment to which this section applies is made the directors must propose an auditor or auditors for appointment.

(4) Before the directors make a proposal under subsection (3), the directors must carry out a selection procedure in accordance with Article 16(3) of the Audit Regulation , **[**F612from which their proposed auditor or auditors must be drawn,**]** unless the company is—

(a) a small or medium sized enterprise within the meaning in Article 2(1)(f) of Directive 2003/71/EU ; or

(b) a company with reduced market capitalisation within the meaning in Article 2(1)(t) of that Directive.

[F613(5) Subsection (4) does not apply in relation to a proposal to re-appoint the company's existing auditor or auditors.**]]**

Textual Amendments

F607 Ss. 489A 489B inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 8** (with reg. 1(12))

F612 Words in s. 489B(4) inserted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(9)(a)**

F613 S. 489B(5) substituted for s. 489D(5)-(7) (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(9)(b)**

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[F614 489C Restriction on appointment of auditor of public company which is a public interest entity

(1) A person who has been, or will have been, auditor of a public company which is a public interest entity for every financial year comprised in the maximum engagement period (see section 494ZA) may not be appointed as auditor of the company for any financial year which begins within the period of 4 years beginning with the day after the last day of the last financial year of the maximum engagement period.

(2) A person who is a member of the same network as the auditor mentioned in subsection (1) may not be appointed as auditor of the company for any financial year which begins within the period of 4 years mentioned in that subsection.

(3) This section does not apply in relation to an Auditor General.**]**

Textual Amendments

F614 S. 489C inserted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(10)**

490 Appointment of auditors of public company: default power of Secretary of State

(1) If a public company fails to appoint an auditor or auditors in accordance with section 489[F615]... the Secretary of State may appoint one or more persons to fill the vacancy.

(2) Where subsection (2) of **[**[F616]section 489**]** applies and the company fails to make the necessary appointment before the end of the accounts meeting, the company must within one week of the end of that meeting give notice to the Secretary of State of his power having become exercisable.

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

(a) the company, and

(b) every officer of the company who is in default.

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

Textual Amendments

F615 Words in s. 490(1) omitted (with effect in accordance with reg. 2(3) of the amending S.I.) by virtue of The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 18** (with reg. 2(6)(7))

F616 Words in s. 490(2) substituted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(11)**

Modifications etc. (not altering text)

C870 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

[F617 490A Defective appointments: default power of Secretary of State

(1) If—

(a) a public company appoints, or purports to appoint, an auditor or auditors, and

(b) the appointment or purported appointment is made in breach of section 489A, 489B or 489C (requirements applying to appointment of auditors by public interest entities),

the Secretary of State may appoint another auditor or auditors in place of the auditor or auditors referred to in paragraph (a).

(2) The breach of section 489A, 489B or 489C does not invalidate any report made under Chapter 3 of this Part by the auditor or auditors on the company's annual reports or accounts before the auditor or auditors are replaced under subsection (1) of this section.

(3) But where the breach in question is a breach of section 489C, sections 1248 and 1249 (Secretary of State's power to require second audit) apply as if the auditor was not an appropriate person, or the auditors were not appropriate persons, for the period during which the audit was conducted.

(4) Within one week of becoming aware of the breach of section 489A, 489B or 489C, the company must give notice to the Secretary of State that the power under subsection (1) of this section has become exercisable.

(5) If the company fails to give the notice required by subsection (4), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

Textual Amendments

F617 S. 490A inserted (with effect in accordance with reg. 2(3) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 19** (with reg. 2(6)(7))

491 Term of office of auditors of public company

(1) The auditor or auditors of a public company hold office in accordance with the terms of their appointment, subject to the requirements that—

(a) they do not take office until the previous auditor or auditors have ceased to hold office, and

(b) they cease to hold office at the conclusion of the accounts meeting next following their appointment, unless re-appointed.

F618(1A) . . . . . .

F618(1B) . . . . . .

F618(1C) . . . . . .

F618(1D) . . . . . .

Status: *Point in time view as at 31/12/2020.*
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F618(1E) . . . . . .

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

Textual Amendments

F618 S. 491(1A)-(1E) omitted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(12)**

Modifications etc. (not altering text)

C871 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

F619491A Maximum engagement period: transitional arrangements

. . . . . .

Textual Amendments

F619 S. 491A omitted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(13)**

General provisions

492 Fixing of auditor's remuneration

(1) The remuneration of an auditor appointed by the members of a company must be fixed by the members by ordinary resolution or in such manner as the members may by ordinary resolution determine.

(2) The remuneration of an auditor appointed by the directors of a company must be fixed by the directors.

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

(4) For the purposes of this section "remuneration" includes sums paid in respect of expenses.

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

Modifications etc. (not altering text)

C872 S. 492 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 37**

Status: *Point in time view as at 31/12/2020.*
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C873 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

493 Disclosure of terms of audit appointment

(1) The Secretary of State may make provision by regulations for securing the disclosure of the terms on which a company's auditor is appointed, remunerated or performs his duties.

Nothing in the following provisions of this section affects the generality of this power.

(2) The regulations may—

(a) require disclosure of—

(i) a copy of any terms that are in writing, and

(ii) a written memorandum setting out any terms that are not in writing;

(b) require disclosure to be at such times, in such places and by such means as are specified in the regulations;

(c) require the place and means of disclosure to be stated—

(i) in a note to the company's annual accounts (in the case of its individual accounts) or in such manner as is specified in the regulations (in the case of group accounts),

(ii) in**[**[F620]the strategic report or**]** the directors' report, or

(iii) in the auditor's report on the company's annual accounts.

(3) The provisions of this section apply to a variation of the terms mentioned in subsection (1) as they apply to the original terms.

(4) Regulations under this section are subject to affirmative resolution procedure.

Textual Amendments

F620 Words in s. 493(2)(c)(ii) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 19**

Modifications etc. (not altering text)

C874 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I208 S. 493 wholly in force at 6.4.2008; s. 493 not in force at Royal Assent, see s. 1300; s. 493 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 493 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 9-19)

Status: *Point in time view as at 31/12/2020.*
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494 Disclosure of services provided by auditor or associates and related remuneration

(1) The Secretary of State may make provision by regulations for securing the disclosure of—

(a) the nature of any services provided for a company by the company's auditor (whether in his capacity as auditor or otherwise) or by his associates;

(b) the amount of any remuneration received or receivable by a company's auditor, or his associates, in respect of any such services.

Nothing in the following provisions of this section affects the generality of this power.

(2) The regulations may provide—

(a) for disclosure of the nature of any services provided to be made by reference to any class or description of services specified in the regulations (or any combination of services, however described);

(b) for the disclosure of amounts of remuneration received or receivable in respect of services of any class or description specified in the regulations (or any combination of services, however described);

(c) for the disclosure of separate amounts so received or receivable by the company's auditor or any of his associates, or of aggregate amounts so received or receivable by all or any of those persons.

(3) The regulations may—

(a) provide that "remuneration" includes sums paid in respect of expenses;

(b) apply to benefits in kind as well as to payments of money, and require the disclosure of the nature of any such benefits and their estimated money value;

(c) apply to services provided for associates of a company as well as to those provided for a company;

(d) define "associate" in relation to an auditor and a company respectively.

(4) The regulations may provide that any disclosure required by the regulations is to be made—

(a) in a note to the company's annual accounts (in the case of its individual accounts) or in such manner as is specified in the regulations (in the case of group accounts),

(b) in**[**F621the strategic report or**]** the directors' report, or

(c) in the auditor's report on the company's annual accounts.

(5) If the regulations provide that any such disclosure is to be made as mentioned in subsection (4)(a) or (b), the regulations may require the auditor to supply the directors of the company with any information necessary to enable the disclosure to be made.

(6) Regulations under this section are subject to negative resolution procedure.

Textual Amendments

F621 Words in s. 494(4)(b) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 20**

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Modifications etc. (not altering text)

C875 S. 494 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 38**

C876 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I209 S. 494 wholly in force at 6.4.2008; s. 494 not in force at Royal Assent, see s. 1300; s. 494 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 494 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 9-19)

[F622 494ZA The maximum engagement period

(1) Where a person is auditor of a company for consecutive financial years, the maximum engagement period of the person as auditor of the company—

(a) begins with the first of those years (see the appropriate entry in the first column of the following Table), and

(b) ends with the financial year specified in the corresponding entry in the second column of the Table:

First financial year of the maximum engagement period	Last financial year of the maximum engagement period
A financial year of the company beginning before 17 June 1994	The last financial year of the company to begin before 17 June 2020.
A financial year of the company beginning— (a) on or after 17 June 1994, and (b) before 17 June 2003	The last financial year of the company to begin before 17 June 2023.
A financial year of the company beginning— (a) on or after 17 June 2003, and (b) before 17 June 2016	*No qualifying selection procedure* Where neither the first financial year of the maximum engagement period nor any subsequent financial year is one for which the auditor has been appointed following the carrying out of a qualifying selection procedure, the later of- (a) the last financial year of the company to begin before 17 June 2016, and (b) the last financial year of the company to begin within the period of 10 years beginning with the first day of the first financial year of the maximum engagement period. *No qualifying selection procedure within 10 years* Where the last day of the last financial year of the company to begin within

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First financial year of the maximum engagement period	Last financial year of the maximum engagement period
	the period of 10 years beginning with the first day of the last financial year of the company for which the auditor was appointed following a qualifying selection procedure is before 17 June 2016— (a) the last financial year of the company to begin before 17 June 2016, unless (b) the auditor is appointed following a qualifying selection procedure for the first financial year of the company to begin on or after 17 June 2016, in which case it is the last financial year of the company to begin within the period of 20 years beginning with the first day of the first financial year of the maximum engagement period. *Qualifying selection procedure within 10 years* In any other case, the earlier of- (a) the last financial year of the company to begin within the period of 10 years beginning with the first day of the last financial year of the company for which the auditor was appointed following a qualifying selection procedure, and (b) the last financial year of the company to begin within the period of 20 years beginning with the first day of the first financial year of the maximum engagement period.
A financial year of the company beginning on or after 17 June 2016	The earlier of— (a) the last financial year of the company to begin within the period of 10 years beginning with the first day of the last financial year of the company for which the auditor was appointed following a qualifying selection procedure, and (b) the last financial year of the company to begin within the period of 20 years beginning with the first day of the first financial year of the maximum engagement period.

(2) Where the first financial year of the maximum engagement period begins on or after 17 June 2003, the maximum engagement period may be extended by a period of no more than 2 years with the approval of the competent authority.

(3) Such approval may be given by the competent authority only if it is satisfied that exceptional circumstances exist.

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(4) Where the competent authority gives its approval as mentioned in subsection (2)—

(a) the second column of the Table in subsection (1) has effect with the necessary modifications, and

(b) the first appointment to be made after the end of the period as so extended must be made following a qualifying selection procedure.

(5) **[**F623In this section**]** "qualifying selection procedure" means—

(a) in the case of an appointment for a financial year beginning on or after 17 June 2016 made after the Statutory Auditors and Third Country Auditors Regulations 2017 come into force—

(i) if the company is a private company and has an audit committee, a selection procedure that complies with the requirements of section 485A(4) and (5)(a) and (b),

(ii) if the company is a public company and has an audit committee, a selection procedure that complies with the requirements of subsections 489A(4) and (5)(a) and(b), F624...

[F625(iii) if the company is a private company and does not have an audit committee, a selection procedure that complies with the requirements of section 485B(4),

(iv) if the company is a public company and does not have an audit committee, a selection procedure that complies with the requirements of section 489B(4),**]**

(b) in any other case, a selection procedure that substantially meets the requirements of Article 16(2) to (5) of the Audit Regulation **[**F626as it had effect immediately before IP completion day**]**, having regard to the circumstances at the time (including whether the company had an audit committee).**]**

Textual Amendments

F622 S. 494ZA inserted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(14)**

F623 Words in s. 494ZA(5) substituted (1.1.2018) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 20** (with reg. 2(6)(7))

F624 Word in s. 494ZA(5)(a)(ii) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **5(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F625 S. 494ZA(5)(a)(iii)(iv) substituted for s. 494ZA(5)(a)(iii) (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **5(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F626 Words in s. 494ZA(5)(b) inserted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **5(c)** (as amended by S.I. 2020/523, regs. 1(2), **14(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Modifications etc. (not altering text)

C877 S. 494ZA applied (with modifications) by S.I. 2008/565, reg. 6(1)(1A) (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 6(a)** (with reg. 2(6)(7)))

C878 Ss. 494A, 494ZA applied (with modifications) by S.I. 2008/1911, regs. 38A, 38B (as inserted (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 12** (with reg. 2(6)(7))) (as amended (31.12.2020) by

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The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **51(a)**; 2020 c. 1, Sch. 5 para. 1(1))

[F627 494A Interpretation

In this Chapter—

[F628"audit committee" means a body which performs—

(a) the functions referred to in—

(i) rule 7.1.3 of the Disclosure Guidance and Transparency Rules sourcebook made by the Financial Conduct Authority (audit committees and their functions) under the Financial Services and Markets Act 2000, or

(ii) rule 2.4 of the Audit Committee Part of the Rulebook made by the Prudential Regulation Authority (audit committee) under that Act,

as they have effect on IP completion day, or

(b) equivalent functions.**]**

F629...

"Auditor General" means—

(a) the Comptroller and Auditor General,

(b) the Auditor General for Scotland,

(c) the Auditor General for Wales, or

(d) the Comptroller and Auditor General for Northern Ireland;

"issuer" has the same meaning as in Part 6 of the Financial Services and Markets Act 2000 (see section 102A(6));

"network" means an association of persons other than a firm co-operating in audit work by way of—

(a) profit-sharing;

(b) cost sharing;

(c) common ownership, control or management;

(d) common quality control policies and procedures;

(e) common business strategy; or

(f) use of a common name;

"public interest **[**F630entity**]** " means—

(a) an issuer whose transferable securities are admitted to trading on a **[**F631UK regulated market**]**;

(b) a credit institution within the meaning given by Article 4(1)(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council, **[**F632which is a CRR firm within the meaning of Article 4(1)(2A) of that Regulation**]**;

(c) **[**F633a person who would be an insurance undertaking as defined in Article 2(1) of Council Directive 91/674/EEC of 19 December 1991 of the European Parliament and of the Council on the annual accounts and consolidated accounts of insurance undertakings as that Article had effect immediately before IP completion day, were the United Kingdom a member State;**]**

F634...

F634...**]**

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Textual Amendments

F627 S. 494A inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 12** (with reg. 1(12))

F628 Words in s. 494A substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **6(a)** (as amended by S.I. 2020/523, regs. 1(2), **14(b)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**

F629 Words in s. 494A omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **6(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F630 Word in s. 494A substituted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(15)**

F631 Words in s. 494A substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **6(c)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F632 Words in s. 494A substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **6(c)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F633 Words in s. 494A substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **6(c)(iii)** (as amended by S.I. 2020/523, regs. 1(2), **14(b)(ii)**); 2020 c. 1, **Sch. 5 para. 1(1)**

F634 Words in s. 494A omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **6(d)**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C879 Ss. 494A, 494ZA applied (with modifications) by S.I. 2008/1911, regs. 38A, 38B (as inserted (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 12** (with reg. 2(6)(7))) (as amended (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **51(b)**; 2020 c. 1, Sch. 5 para. 1(1))

CHAPTER 3

FUNCTIONS OF AUDITOR

Auditor's report

Modifications etc. (not altering text)

C880 Ss. 495-497 applied (with modifications) by S.I. 2008/373, **reg. 7(1)(1A)** (as substituted and inserted (1.1.2018) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **9** (with reg. 2(6)(7)))

495 Auditor's report on company's annual accounts

(1) A company's auditor must make a report to the company's members on all annual accounts of the company of which copies are, during his tenure of office—

(a) in the case of a private company, to be sent out to members under section 423;

(b) in the case of a public company, to be laid before the company in general meeting under section 437.

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[F635(2) The auditor's report must include—

(a) the identity of the company whose annual accounts are the subject of the audit,

(b) a description of the annual accounts that are the subject of the audit (including the period covered by those accounts),

(c) a description of the financial reporting framework that has been applied in the preparation of those accounts, and

(d) a description of the scope of the audit identifying the auditing standards in accordance with which the audit was conducted.**]**

(3) The report must state clearly whether, in the auditor's opinion, the annual accounts—

(a) give a true and fair view—

(i) in the case of an individual balance sheet, of the state of affairs of the company as at the end of the financial year,

(ii) in the case of an individual profit and loss account, of the profit or loss of the company for the financial year,

(iii) in the case of group accounts, of the state of affairs as at the end of the financial year and of the profit or loss for the financial year of the undertakings included in the consolidation as a whole, so far as concerns members of the company;

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

(c) have been prepared in accordance with the requirements of this Act F636....

Expressions used in this subsection**[**F637or subsection (3A)**]** that are defined for the purposes of Part 15 (see **[**F638sections 464, 471 and 474**]**) have the same meaning as in that Part.

[F639(3A) The following provisions apply to the auditors of a company which qualifies as a micro-entity in relation to a financial year (see sections 384A and 384B) in their consideration of whether the Companies Act individual accounts of the company for that year give a true and fair view as mentioned in subsection (3)(a)—

(a) where the accounts comprise only micro-entity minimum accounting items, the auditors must disregard any provision of an accounting standard which would require the accounts to contain information additional to those items,

(b) in relation to a micro-entity minimum accounting item contained in the accounts, the auditors must disregard any provision of an accounting standard which would require the accounts to contain further information in relation to that item, and

(c) where the accounts contain an item of information additional to the micro-entity minimum accounting items, the auditors must have regard to any provision of an accounting standard which relates to that item.**]**

[F640(4) The auditor's report—

(a) must be either unqualified or qualified,

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

(c) must include a statement on any material uncertainty relating to events **[**F641or conditions**]** that may cast significant doubt about the company's ability to continue to adopt the going concern basis of accounting, and

(d) must identify the auditor's place of establishment.**]**

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[F642(5) Where more than one person is appointed as an auditor—

(a) all the persons appointed must jointly make a report under this section and the report must include a statement as to whether all the persons appointed agree on the matters contained in the report, and

(b) if all the persons appointed cannot agree on the matters contained in the report, the report must include the opinions of each person appointed and give reasons for the disagreement.**]**

Textual Amendments

F635 S. 495(2) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 13(2)** (with reg. 1(12))

F636 Words in s. 495(3)(c) omitted (31.12.2020) by virtue of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 1 para. 23** (with reg. 1(3)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F637 Words in s. 495(3) inserted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **8(2)(a)** (with reg. 3)

F638 Words in s. 495(3) substituted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **8(2)(b)** (with reg. 3)

F639 S. 495(3A) inserted (with effect in accordance with reg. 2(2) of the amending S.I.) by The Small Companies (Micro-Entities' Accounts) Regulations 2013 (S.I. 2013/3008), regs. 2(1), **8(3)** (with reg. 3)

F640 S. 495(4) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 13(3)** (with reg. 1(12))

F641 Words in s. 495(4)(c) inserted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(16)**

F642 S. 495(5) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 13(4)** (with reg. 1(12))

Modifications etc. (not altering text)

C881 S. 495 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 3**

C882 S. 495 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 7** (as amended (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 7** (with reg. 2(6)(7)))

C883 S. 495 applied (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), **reg. 8(1)(a)**, Sch. para. 1 (with Sch. para. 11)

C884 S. 495 applied (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 9(a)**

C885 S. 495 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 39** (as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **24**)

C886 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C887 S. 495 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

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C888 Ss. 495, 496 applied (with modifications) by S.I. 2008/1911, **reg. 39** (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 13** (with reg. 2(6)(7)))

C889 S. 495 applied (with modifications) (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **9(4)-(8)**

C890 S. 495(1) excluded (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 7(1)(b)**

C891 S. 495(1) excluded by S.I. 2008/373, reg. 9(1)(1A) (as substituted (1.1.2018) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **10(a)** (with reg. 2(6)(7)))

C892 S. 495(2)-(4) applied (with modifications) (prosp.) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 44(2)(b)**, 148(2)(b)

C893 S. 495(2)-(4) applied (with modifications) (prosp.) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 44(3)(b)**, 148(2)(b)

496 Auditor's report on strategic report and on directors' report

[F643(1) In his report on the company's annual accounts, the auditor must-

(a) state whether, in his opinion, based on the work undertaken in the course of the audit—

(i) the information given in the strategic report (if any) and the directors' report for the financial year for which the accounts are prepared is consistent with those accounts, and

(ii) any such strategic report and the directors' report have been prepared in accordance with applicable legal requirements,

(b) state whether, in the light of the knowledge and understanding of the company and its environment obtained in the course of the audit, he has identified material misstatements in the strategic report (if any) and the directors' report, and

(c) if applicable, give an indication of the nature of each of the misstatements referred to in paragraph (b).**]**

[F644(2) Where more than one person is appointed as auditor, the report must include a statement as to whether all the persons appointed agree on the statements and indications given under subsection (1) and, if they cannot agree on those statements and indications, the report must include the opinions of each person appointed and give reasons for the disagreement.**]**

Textual Amendments

F643 Words in s. 496 renumbered as s. 496(1) (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 14(2)** (with reg. 1(12))

F644 S. 496(2) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 14(2)** (with reg. 1(12))

Modifications etc. (not altering text)

C888 Ss. 495, 496 applied (with modifications) by S.I. 2008/1911, **reg. 39** (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 13** (with reg. 2(6)(7)))

C894 S. 496 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 3**

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C895 Ss. 496-501 applied (with modifications) (prosp.) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 44(2)(b)**, 148(2)(b)

C896 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C897 S. 496 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

C898 Ss. 496, 497 applied (with modifications) by S.I. 2008/373, **reg. 9(1)(1A)** (as substituted (1.1.2018) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **10(a)** (with reg. 2(6)(7)))

C899 S. 496 applied (with modifications) by S.I. 2008/565, **reg. 7(1)(aa)** (as amended (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 7** (with reg. 2(6)(7)))

C900 S. 496 applied (with modifications) (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **9(4)-(8)**

497 Auditor's report on auditable part of directors' remuneration report

(1) If the company is a quoted company **[**[F645]or unquoted traded company**]**, the auditor, in his report on the company's annual accounts for the financial year, must—

(a) report to the company's members on the auditable part of the directors' remuneration report, and

(b) state whether in his opinion that part of the directors' remuneration report has been properly prepared in accordance with this Act.

(2) For the purposes of this Part, "the auditable part" of a directors' remuneration report is the part identified as such by regulations under section 421.

[[F646](3) In this section "unquoted traded company" means a traded company (as defined by section 360C) that is not a quoted company.**]**

Textual Amendments

F645 Words in s. 497(1) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **25(a)**

F646 S. 497(3) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **25(b)**

Modifications etc. (not altering text)

C898 Ss. 496, 497 applied (with modifications) by S.I. 2008/373, **reg. 9(1)(1A)** (as substituted (1.1.2018) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **10(a)** (with reg. 2(6)(7)))

C901 Ss. 496-501 applied (with modifications) (prosp.) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 44(2)(b)**, 148(2)(b)

C902 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

497A Auditor's report on separate corporate governance statement

[[F647](1) Where the company prepares a separate corporate governance statement in respect of a financial year, the auditor must, in his report of the company's annual accounts for that year—

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(a) state whether, in his opinion, based on the work undertaken in the course of the audit, the information given in the statement in compliance with rules 7.2.5 and 7.2.6 in the Disclosure Rules and Transparency Rules sourcebook made by the Financial Conduct Authority (information about internal control and risk management systems in relation to financial reporting processes and about share capital structures)—

(i) is consistent with those accounts, and

(ii) has been prepared in accordance with applicable legal requirements,

(b) state whether, in the light of the knowledge and understanding of the company and its environment obtained in the course of the audit, he has identified material misstatements in the information in the statement referred to in paragraph (a),

(c) if applicable, give an indication of the nature of each of the misstatements referred to in paragraph (b), and

(d) state whether, in his opinion, based on the work undertaken in the course of the audit, rules 7.2.2, 7.2.3 and 7.2.7 in the Disclosure Rules and Transparency Rules sourcebook made by the Financial Conduct Authority (information about the company's corporate governance code and practices and about its administrative, management and supervisory bodies and their committees) have been complied with, if applicable.**]**

[F648(2) Where more than one person is appointed as auditor, the report must include a statement as to whether all the persons appointed agree on the statements and indications given under subsection (1) and, if they cannot agree on those statements and indications, the report must include the opinions of each person appointed and give reasons for the disagreement.**]**

Textual Amendments

F647 Words in s. 497A renumbered as s. 497A(1) (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 15(2)** (with reg. 1(12))

F648 S. 497A(2) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 15(2)** (with reg. 1(12))

Modifications etc. (not altering text)

C903 Ss. 496-501 applied (with modifications) (prosp.) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 44(2)(b)**, 148(2)(b)

C904 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Duties and rights of auditors

498 Duties of auditor

(1) A company's auditor, in preparing his report, must carry out such investigations as will enable him to form an opinion as to—

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

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

(c) in the case of a quoted company **[**F649or unquoted traded company**]**, whether the auditable part of the company's directors' remuneration report is in agreement with the accounting records and returns.

(2) If the auditor is of the opinion—

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

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

(c) in the case of a quoted company **[**F650or unquoted traded company**]**, that the auditable part of its directors' remuneration report is not in agreement with the accounting records and returns,

the auditor shall state that fact in his report.

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

(4) If—

(a) the requirements of regulations under section 412 (disclosure of directors' benefits: remuneration, pensions and compensation for loss of office) are not complied with in the annual accounts, or

(b) in the case of a quoted company, the requirements of regulations under section 421 as to information forming the auditable part of the directors' remuneration report are not complied with in that report,

the auditor must include in his report, so far as he is reasonably able to do so, a statement giving the required particulars.

[F651(5) If the directors of the company—

(a) have prepared accounts in accordance with the small companies regime, or

(b) have taken advantage of small companies exemption**[**F652from the requirement to prepare a strategic report or**]** in preparing the directors' report,

and in the auditor's opinion they were not entitled to do so, the auditor shall state that fact in his report.**]**

[F653(6) Where more than one person is appointed as auditor, the report must include a statement as to whether all the persons appointed agree on the statements given under subsections (2) to (5) and, if they cannot agree on those statements, the report must include the opinions of each person appointed and give reasons for the disagreement.**]**

[F654(7) In this section "unquoted traded company" means a traded company (as defined by section 360C) that is not a quoted company.**]**

Textual Amendments

F649 Words in s. 498(1)(c) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **26(a)**

F650 Words in s. 498(2)(c) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **26(a)**

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F651 S. 498(5) substituted (6.4.2008 with effect as mentioned in reg. 2(2) of the amending Regulations) by The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 (2008/393), reg. 6(10)

F652 Words in s. 498(5)(b) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 22**

F653 S. 498(6) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 16(2)** (with reg. 1(12))

F654 S. 498(7) inserted (10.6.2019) by The Companies (Directors Remuneration Policy and Directors Remuneration Report) Regulations 2019 (S.I. 2019/970), regs. 1, **26(b)**

Modifications etc. (not altering text)

C905 S. 498 applied (with modifications) (6.4.2008 with application as mentioned in reg. 1(2) of the affecting Regulations) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 7(1)(a)**

C906 S. 498 applied (with modifications) (6.4.2008 with application as mentioned in reg. 1(2) of the affecting Regulations) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 3**

C907 S. 498 applied (6.4.2008 with application as mentioned in reg. 1(2) of the affecting Regulations) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 7(1)(b)** (as amended (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 7** (with reg. 2(6)(7)))

C908 S. 498 applied (6.4.2008 with application as mentioned in reg. 1(2) of the affecting Regulations) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), regs. 4, **8(1)(b)**, Sch. para. 1 (with Sch. para. 11)

C909 S. 498 applied (6.4.2008 with application as mentioned in reg. 1(2) of the affecting Regulations) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 9(b)**

C910 Ss. 498-502 applied (with modifications) (1.10.2008 with application as mentioned in reg. 2 of the affecting Regulations) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 40** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 16**) (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 14** (with reg. 2(6)(7)))

C911 Ss. 496-501 applied (with modifications) (prosp.) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 44(2)(b)**, 148(2)(b)

C912 Ss. 498-501 applied (with modifications) (prosp.) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 44(3)(b)**, 148(2)(b)

C913 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C914 Ss. 498-501 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

C915 S. 498 applied (with modifications) by S.I. 2008/373, reg. 9(1)(1A) (as substituted (1.1.2018) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **10(a)** (with reg. 2(6)(7)))

C916 S. 498 applied (with modifications) (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **9(4)-(8)**

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[F655 498A Auditor's duties in relation to separate corporate governance statement

Where the company is required to prepare a corporate governance statement in respect of a financial year and no such statement is included in the directors' report—

(a) the company's auditor, in preparing his report on the company's annual accounts for that year, must ascertain whether a corporate governance statement has been prepared, and

(b) if it appears to the auditor that no such statement has been prepared, he must state that fact in his report.**]**

Textual Amendments

F655 S. 498A inserted (27.6.2009) by The Companies Act 2006 (Accounts, Reports and Audit) Regulations 2009 (S.I. 2009/1581), **reg. 7** (with application as stated in reg. 1(3))

Modifications etc. (not altering text)

C914 Ss. 498-501 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

C917 Ss. 496-501 applied (with modifications) (prosp.) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 44(2)(b)**, 148(2)(b)

C918 Ss. 498-501 applied (with modifications) (prosp.) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 44(3)(b)**, 148(2)(b)

C919 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

499 Auditor's general right to information

(1) An auditor of a company—

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

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

(2) Those persons are—

(a) any officer or employee of the company;

(b) any person holding or accountable for any of the company's books, accounts or vouchers;

(c) any subsidiary undertaking of the company which is a body corporate incorporated in the United Kingdom;

(d) any officer, employee or auditor of any such subsidiary undertaking or any person holding or accountable for any books, accounts or vouchers of any such subsidiary undertaking;

(e) any person who fell within any of paragraphs (a) to (d) at a time to which the information or explanations required by the auditor relates or relate.

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

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

Modifications etc. (not altering text)

C914 Ss. 498-501 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

C920 Ss. 499-501 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C921 Ss. 498-502 applied (with modifications) (1.10.2008 with application as mentioned in reg. 2 of the affecting Regulations) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 40** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 16**) (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), Sch. 3 para. 14 (with reg. 2(6)(7)))

C922 Ss. 499-502 applied (with modifications) (1.4.2010.) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

C923 S. 499 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 7**

C924 S. 499 applied (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), **reg. 8(1)(c)**, Sch. para. 1 (with Sch. para. 11)

C925 S. 499 applied (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 9(c)**

C926 Ss. 496-501 applied (with modifications) (prosp.) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 44(2)(b)**, 148(2)(b)

C927 Ss. 498-501 applied (with modifications) (prosp.) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 44(3)(b)**, 148(2)(b)

C928 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C929 S. 499 applied (with modifications) (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **9(4)-(8)**

500 Auditor's right to information from overseas subsidiaries

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

(2) Those persons are—

(a) the undertaking;

(b) any officer, employee or auditor of the undertaking;

(c) any person holding or accountable for any of the undertaking's books, accounts or vouchers;

(d) any person who fell within paragraph (b) or (c) at a time to which the information or explanations relates or relate.

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

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

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

Modifications etc. (not altering text)

C914 Ss. 498-501 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

C930 Ss. 499-501 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C931 Ss. 498-502 applied (with modifications) (1.10.2008 with application as mentioned in reg. 2 of the affecting Regulations) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 40** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 16**) (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 14** (with reg. 2(6)(7)))

C932 Ss. 499-502 applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

C933 Ss. 496-501 applied (with modifications) (prosp.) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 44(2)(b)**, 148(2)(b)

C934 Ss. 498-501 applied (with modifications) (prosp.) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 44(3)(b)**, 148(2)(b)

C935 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

501 Auditor's rights to information: offences

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

(a) conveys or purports to convey any information or explanations which the auditor requires, or is entitled to require, under section 499, and

(b) is misleading, false or deceptive in a material particular.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

(3) A person who fails to comply with a requirement under section 499 without delay commits an offence unless it was not reasonably practicable for him to provide the required information or explanations.

(4) If a parent company fails to comply with section 500, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

(6) Nothing in this section affects any right of an auditor to apply for an injunction (in Scotland, an interdict or an order for specific performance) to enforce any of his rights under section 499 or 500.

Modifications etc. (not altering text)

C914 Ss. 498-501 applied (with modifications) (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

C936 Ss. 499-501 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C937 Ss. 498-502 applied (with modifications) (1.10.2008 with application as mentioned in reg. 2 of the affecting Regulations) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 40** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 16**) (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 14** (with reg. 2(6)(7)))

C938 Ss. 499-502 applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

C939 Ss. 496-501 applied (with modifications) (prosp.) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 44(2)(b)**, 148(2)(b)

C940 Ss. 498-501 applied (with modifications) (prosp.) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 44(3)(b)**, 148(2)(b)

C941 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

502 Auditor's rights in relation to resolutions and meetings

(1) In relation to a written resolution proposed to be agreed to by a private company, the company's auditor is entitled to receive all such communications relating to the resolution as, by virtue of any provision of Chapter 2 of Part 13 of this Act, are required to be supplied to a member of the company.

(2) A company's auditor is entitled—

(a) to receive all notices of, and other communications relating to, any general meeting which a member of the company is entitled to receive,

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(b) to attend any general meeting of the company, and

(c) to be heard at any general meeting which he attends on any part of the business of the meeting which concerns him as auditor.

(3) Where the auditor is a firm, the right to attend or be heard at a meeting is exercisable by an individual authorised by the firm in writing to act as its representative at the meeting.

Modifications etc. (not altering text)

C942 Ss. 498-502 applied (with modifications) (1.10.2008 with application as mentioned in reg. 2 of the affecting Regulations) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 40** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 16**) (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 14** (with reg. 2(6)(7)))

C943 Ss. 499-502 applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(2)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

C944 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Signature of auditor's report

503 Signature of auditor's report

(1) The auditor's report must state the name of the auditor and be signed and dated.

(2) Where the auditor is an individual, the report must be signed by him.

(3) Where the auditor is a firm, the report must be signed by the senior statutory auditor in his own name, for and on behalf of the auditor.

[[F656](4) Where more than one person is appointed as auditor, the report must be signed by all those appointed.**]**

Textual Amendments

F656 S. 503(4) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 17(2)** (with reg. 1(12))

Modifications etc. (not altering text)

C945 Ss. 503-506 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 7(5)**

C946 Ss. 503-506 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 9(5)**

C947 Ss. 503-506 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 8**

C948 Ss. 503-506 applied (with modifications) (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), regs. 4, **9**, Sch. para. 10 (with Sch. para. 11) (as amended (1.4.2013) by S.I. 2013/472, Sch. 2 para. 138(c))

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C949 Ss. 503-506 applied (with modifications) (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 10**, Sch. Pt. 2

C950 S. 503 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 3**

C951 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C952 S. 503 applied (with modifications) in part (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

C953 S. 503 applied (with modifications) (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **9(4)-(8)**

C954 Ss. 503-506 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 41** (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 15** (with reg. 2(6)(7)) and as amended (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **52**; 2020 c. 1, **Sch. 5 para. 1(1)**)

504 Senior statutory auditor

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

F657(a) . . . . . .

(b) F658... any relevant guidance issued by—

(i) the Secretary of State, or

(ii) a body appointed by order of the Secretary of State.

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

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

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

Textual Amendments

F657 S. 504(1)(a) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **7(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F658 Words in s. 504(1)(b) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **7(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C954 Ss. 503-506 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 41** (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 15** (with reg. 2(6)(7)) and as amended (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **52**; 2020 c. 1, **Sch. 5 para. 1(1)**)

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C955 Ss. 503-506 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 7(5)**

C956 Ss. 503-506 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 9(5)**

C957 Ss. 503-506 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 8**

C958 Ss. 503-506 applied (with modifications) (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), regs. 4, **9**, Sch. para. 10 (with Sch. para. 11) (as amended (1.4.2013) by S.I. 2013/472, Sch. 2 para. 138(c))

C959 Ss. 503-506 applied (with modifications) (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 10**, Sch. Pt. 2

C960 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C961 S. 504 applied (with modifications) (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **9(4)-(8)**

Commencement Information

I210 S. 504 wholly in force at 6.4.2008; s. 504 not in force at Royal Assent, see s. 1300; s. 504 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 504 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 9-19)

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

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

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

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

[[F659](1A) If more than one person is appointed as auditor, the reference in subsection (1)(a) to the name of the auditor is to be read as a reference to the names of all the auditors.**]**

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

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

(a) the company, and

(b) every officer of the company who is in default.

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

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Textual Amendments

F659 S. 505(1A) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 18(2)** (with reg. 1(12))

Modifications etc. (not altering text)

C954 Ss. 503-506 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 41** (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 15** (with reg. 2(6)(7)) and as amended (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **52**; 2020 c. 1, **Sch. 5 para. 1(1)**)

C962 Ss. 505, 506 applied (with modifications) (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), reg. 4, **Sch. para. 10** (with Sch. para. 11)

C963 Ss. 503-506 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 7(5)**

C964 Ss. 503-506 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 9(5)**

C965 Ss. 503-506 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 8**

C966 Ss. 503-506 applied (with modifications) (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), regs. 4, **9**, Sch. para. 10 (with Sch. para. 11) (as amended (1.4.2013) by S.I. 2013/472, Sch. 2 para. 138(c))

C967 Ss. 503-506 applied (with modifications) (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 10**, Sch. Pt. 2

C968 Ss. 505, 506 applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(3)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

C969 S. 505 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 3**

C970 Ss. 505, 506 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C971 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C972 S. 505 applied (with modifications) in part (31.7.2015) by The European Grouping of Territorial Cooperation Regulations 2015 (S.I. 2015/1493), regs. 1(2), **7(1)** (with reg. 11)

C973 S. 505 applied (with modifications) (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **9(4)-(8)**

506 Circumstances in which names may be omitted

(1) **[**[F660]An auditor's**]** name and, where the auditor is a firm, the name of the person who signed the report as senior statutory auditor, may be omitted from—

(a) published copies of the report, and

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

if the following conditions are met.

(2) The conditions are that the company—

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(a) considering on reasonable grounds that statement of the name would create or be likely to create a serious risk that the auditor or senior statutory auditor, or any other person, would be subject to violence or intimidation, has resolved that the name should not be stated, and

(b) has given notice of the resolution to the Secretary of State, stating—

(i) the name and registered number of the company,

(ii) the financial year of the company to which the report relates, and

(iii) the name of the auditor and (where the auditor is a firm) the name of the person who signed the report as senior statutory auditor.

Textual Amendments

F660 Words in s. 506(1) substituted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(17)**

Modifications etc. (not altering text)

C954 Ss. 503-506 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 41** (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 15** (with reg. 2(6)(7)) and as amended (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **52**; 2020 c. 1, **Sch. 5 para. 1(1)**)

C974 Ss. 505, 506 applied (with modifications) (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), reg. 4, **Sch. para. 10** (with Sch. para. 11)

C975 Ss. 503-506 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 7(5)**

C976 Ss. 503-506 applied (with modifications) (6.4.2008) by The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373), **reg. 9(5)**

C977 Ss. 503-506 applied (with modifications) (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 8**

C978 Ss. 503-506 applied (with modifications) (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), regs. 4, **9**, Sch. para. 10 (with Sch. para. 11) (as amended (1.4.2013) by S.I. 2013/472, Sch. 2 para. 138(c))

C979 Ss. 505, 506 applied (with modifications) (6.4.2008) by 1996 c. 52, Sch. 1 para. 16D (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C980 Ss. 503-506 applied (with modifications) (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 10**, Sch. Pt. 2

C981 Ss. 505, 506 applied (with modifications) (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 132(1)(3)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

C982 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C983 S. 506 applied (with modifications) (E.W.S.) (1.10.2018) by The Occupational Pension Schemes (Master Trusts) Regulations 2018 (S.I. 2018/1030), regs. 1(2), **9(4)-(8)**

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Offences in connection with auditor's report

507 Offences in connection with auditor's report

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

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

(a) section 498(2)(b) (statement that company's accounts do not agree with accounting records and returns),

(b) section 498(3) (statement that necessary information and explanations not obtained), or

(c) section 498(5) (statement that directors wrongly took advantage of exemption from obligation to prepare group accounts).

(3) This section applies to—

(a) where the auditor is an individual, that individual and any employee or agent of his who is eligible for appointment as auditor of the company;

(b) where the auditor is a firm, any director, member, employee or agent of the firm who is eligible for appointment as auditor of the company.

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

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

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

Modifications etc. (not altering text)

C984 Ss. 507-509 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 42**

C985 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C986 Ss. 507-509 applied (with modifications) by S.I. 2008/565, reg. 8A (as inserted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 9** (with reg. 2(6)(7)))

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

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

(a) appears to involve the commission of an offence under section 507 (offences in connection with auditor's report), and

[F661(b) has been, is being or may be investigated—

(i) pursuant to arrangements under paragraph 15 of Schedule 10 (investigation of complaints against auditors and supervisory bodies), or

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(ii) by the competent authority under the Statutory Auditors and Third Country Auditors Regulations 2016.**]**

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

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

(a) supervisory bodies within the meaning of Part 42 of this Act,

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

(c) the Director of the Serious Fraud Office,

(d) the Director of Public Prosecutions or the Director of Public Prosecutions for Northern Ireland, and

(e) the Secretary of State.

(4) This section does not apply to Scotland.

Textual Amendments

F661 S. 508(1)(b) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 19(2)** (with reg. 1(12))

Modifications etc. (not altering text)

C986 Ss. 507-509 applied (with modifications) by S.I. 2008/565, reg. 8A (as inserted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 9** (with reg. 2(6)(7)))

C987 Ss. 507-509 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 42**

C988 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

509 Guidance for regulatory authorities: Scotland

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

(a) appears to involve the commission of an offence under section 507 (offences in connection with auditor's report), and

[F662(b) has been, is being or may be investigated—

(i) pursuant to arrangements under paragraph 15 of Schedule 10 (investigation of complaints against auditors and supervisory bodies), or

(ii) by the competent authority under the Statutory Auditors and Third Country Auditors Regulations 2016.**]**

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

(3) In this section "relevant regulatory authorities" means—

(a) supervisory bodies within the meaning of Part 42 of this Act,

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

(c) the Secretary of State.

(4) This section applies only to Scotland.

Textual Amendments

F662 S. 509(1)(b) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 20(2)** (with reg. 1(12))

Modifications etc. (not altering text)

C986 Ss. 507-509 applied (with modifications) by S.I. 2008/565, reg. 8A (as inserted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 9** (with reg. 2(6)(7)))

C989 Ss. 507-509 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 42**

C990 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

CHAPTER 4

REMOVAL, RESIGNATION, ETC OF AUDITORS

Removal of auditor

510 Resolution removing auditor from office

(1) The members of a company may remove an auditor from office at any time.

(2) This power is exercisable only—

(a) by ordinary resolution at a meeting, and

(b) in accordance with section 511 (special notice of resolution to remove auditor).

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

(a) of his appointment as auditor, or

(b) of any appointment terminating with that as auditor.

[F663(4) An auditor may not be removed from office before the expiration of his term of office except—

(a) by resolution under this section, or

(b) in accordance with section 511A.**]**

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Textual Amendments

F663 S. 510(4) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 21(2)** (with reg. 1(12))

Modifications etc. (not altering text)

C991 Ss. 510-512 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 43**; (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 16** (with reg. 2(6)(7))

C992 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

511 Special notice required for resolution removing auditor from office

(1) Special notice is required for a resolution at a general meeting of a company removing an auditor from office.

(2) On receipt of notice of such an intended resolution the company must immediately send a copy of it to the auditor proposed to be removed.

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

(4) The company must (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.

(5) If a copy of any such representations is not sent out as required 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 be read out at the meeting.

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

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

Modifications etc. (not altering text)

C993 Ss. 510-512 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 43**; (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 16** (with reg. 2(6)(7))

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C994 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

[F664 511A Public interest companies: application to court to remove auditor from office

(1) This section applies only to a public interest company.

(2) The competent authority may apply to the court for an order removing an auditor of a company from office if the authority considers that there are proper grounds for removing the auditor from office.

(3) The members of a company may apply to the court for an order removing an auditor of the company from office if the applicant or applicants consider that there are proper grounds for removing the auditor from office.

(4) If the court is satisfied, on hearing an application under subsection (2), that there are proper grounds for removing the auditor from office, it may make an order removing the auditor from office.

(5) If the court is satisfied, on hearing an application under subsection (3), that—

(a) the applicants represent in total—

(i) not less than 5% of the voting rights of all the members having a right to vote at a general meeting of the company, or

(ii) not less than 5% in nominal value of the company's share capital, and

(b) there are proper grounds for removing the auditor from office,

the court may make an order removing the auditor from office.

(6) For the purposes of this section, divergence of opinions on accounting treatments or audit procedures are not to be taken to be proper grounds for removing an auditor from office.

F665(7) . . . . . .]

Textual Amendments

F664 S. 511A inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 22(1)** (with reg. 1(12))

F665 S. 511A(7) omitted (with effect in accordance with reg. 1(6)(8) of the amending S.I.) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **12(18)**

F666 512 Notice to registrar of resolution removing auditor from office

. . . . . .

Textual Amendments

F666 S. 512 omitted (1.10.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 2**; S.I. 2015/1732, art. 2(d) (with arts. 46)

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513 Rights of auditor who has been removed from office

(1) An auditor who has been removed by resolution under section 510 **[**F667or by order of the court under section 511A**]** has, notwithstanding his removal, the rights conferred by section 502(2) in relation to any general meeting of the company—

(a) at which his term of office would otherwise have expired, or

(b) at which it is proposed to fill the vacancy caused by his removal.

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

Textual Amendments

F667 Words in s. 513(1) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 23(2)** (with reg. 1(12))

Modifications etc. (not altering text)

C995 S. 513 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 44** (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 17** (with reg. 2(6)(7)))

C996 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Failure to re-appoint auditor

514 Failure to re-appoint auditor: special procedure required for written resolution

[F668(1) This section applies where a resolution is proposed as a written resolution of a private company whose effect would be to appoint a person as auditor in place of a person (the "outgoing auditor") who, at the time the resolution is proposed, is an auditor of the company and who is to cease to hold office at the end of a period for appointing auditors.

But this section does not apply if the auditor is to cease to hold office by virtue of section 510 **[**F669 , 511A**]** or 516.

(2) This section also applies where a resolution is proposed as a written resolution of a private company whose effect would be to appoint a person as auditor where, at the time the resolution is proposed, the company does not have an auditor and the person proposed to be appointed is not a person (the "outgoing auditor") who was an auditor of the company when the company last had an auditor.

But this is subject to subsection (2A).

(2A) This section does not apply (by virtue of subsection (2)) if— "

(a) a period for appointing auditors has ended since the outgoing auditor ceased to hold office,

(b) the outgoing auditor ceased to hold office by virtue of section 510 **[**F670, 511A**]** or 516, or

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(c) the outgoing auditor has previously had the opportunity to make representations with respect to a proposed resolution under subsection (4) of this section or an intended resolution under section 515(4).**]**

(3) **[**[F671]Where this section applies, the**]** company must send a copy of the proposed resolution to the person proposed to be appointed and to the outgoing auditor.

(4) The outgoing auditor may, within 14 days after receiving the notice, make with respect to the proposed resolution representations in writing to the company (not exceeding a reasonable length) and request their circulation to members of the company.

(5) The company must circulate the representations together with the copy or copies of the resolution circulated in accordance with section 291 (resolution proposed by directors) or section 293 (resolution proposed by members).

(6) Where subsection (5) applies—

(a) the period allowed under section 293(3) for service of copies of the proposed resolution is 28 days instead of 21 days, and

(b) the provisions of section 293(5) and (6) (offences) apply in relation to a failure to comply with that subsection as in relation to a default in complying with that section.

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

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

(8) If any requirement of this section is not complied with, the resolution is ineffective.

Textual Amendments

F668 S. 514(1)-(2A) substituted for s. 514(1) (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 14(2)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F669 Words in s. 514(1) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 24(2)** (with reg. 1(12))

F670 Words in s. 514(2A)(b) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 24(2)** (with reg. 1(12))

F671 Words in s. 514(3) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 14(3)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

Modifications etc. (not altering text)

C997 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

515 Failure to re-appoint auditor: special notice required for resolution at general meeting

[[F672](1) Special notice is required for a resolution at a general meeting of a private company whose effect would be to appoint a person as auditor in place of a person (the "outgoing

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auditor") who, at the time the notice is given, is an auditor of the company and who is to cease to hold office at the end of a period for appointing auditors.

But special notice is not required under this subsection if the auditor is to cease to hold office by virtue of section 510 **[**F673, 511A**]** or 516.

(1A) Special notice is required for a resolution at a general meeting of a public company whose effect would be to appoint a person as auditor in place of a person (the "outgoing auditor") who, at the time the notice is given, is an auditor of the company and who is to cease to hold office at the end of an accounts meeting.

But special notice is not required under this subsection if the auditor is to cease to hold office by virtue of section 510 **[**F674, 511A**]** or 516.

(2) Special notice is required for a resolution at a general meeting of a company whose effect would be to appoint a person as auditor where, at the time the notice is given, the company does not have an auditor and the person proposed to be appointed is not a person (the "outgoing auditor") who was an auditor of the company when the company last had an auditor.

But this is subject to subsection (2A).

(2A) Special notice is not required under subsection (2) if—

(a) a period for appointing auditors has ended or (as the case may be) an accounts meeting of the company has been held since the outgoing auditor ceased to hold office,

(b) the outgoing auditor ceased to hold office by virtue of section 510 **[**F675, 511A**]** or 516, or

(c) the outgoing auditor has previously had the opportunity to make representations with respect to an intended resolution under subsection (4) of this section or a proposed resolution under section 514(4).**]**

(3) On receipt of notice of F676... an intended resolution**[**F677mentioned in subsection (1), (1A) or (2)**]** the company shall forthwith send a copy of it to the person proposed to be appointed and to the outgoing auditor.

(4) The outgoing auditor may make with respect to the intended resolution representations in writing to the company (not exceeding a reasonable length) and request their notification to members of the company.

(5) The company must (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.

(6) If a copy of any such representations is not sent out as required because received too late or because of the company's default, the outgoing auditor may (without prejudice to his right to be heard orally) require that the representations be read out at the meeting.

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

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

Textual Amendments

F672 S. 515(1)-(2A) substituted for s. 515(1)(2) (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 15(2)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F673 Words in s. 515(1) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 25(2)** (with reg. 1(12))

F674 Words in s. 515(1A) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 25(2)** (with reg. 1(12))

F675 Words in s. 515(2A)(b) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 25(2)** (with reg. 1(12))

F676 Word in s. 515(3) omitted (1.10.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 15(3)(a)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F677 Words in s. 515(3) inserted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 15(3)(b)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

Modifications etc. (not altering text)

C998 Ss. 515-518 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 45**; (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 18** (with reg. 2(6)(7))

C999 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Resignation of auditor

516 Resignation of auditor

(1) An auditor of a company may resign his office by **[**[F678]sending a notice to that effect to the company**]**.

(2) **[**[F679]Where the company is a public interest company, the**]** notice is not effective unless it is accompanied by the statement required by section 519.

(3) An effective notice of resignation operates to bring the auditor's term of office to an end as of the date on which the notice is **[**[F680]received**]** or on such later date as may be specified in it.

Textual Amendments

F678 Words in s. 516(1) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 16(2)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F679 Words in s. 516(2) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 3**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F680 Word in s. 516(3) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 16(3)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

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Modifications etc. (not altering text)

C1000 Ss. 515-518 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 45**; (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), Sch. 3 para. 18 (with reg. 2(6)(7))

C1001 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

F681 517 Notice to registrar of resignation of auditor

. . . . . .

Textual Amendments

F681 S. 517 omitted (1.10.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 4**; S.I. 2015/1732, art. 2(d) (with arts. 46)

518 Rights of resigning auditor

(1) This section applies where an **[**F682auditor's (A's) notice of resignation is accompanied by a statement under section 519 except where—.

(a) the company is a non-public interest company, and

(b) the statement includes a statement to the effect that A considers that none of the reasons for A's ceasing to hold office, and no matters (if any) connected with A's ceasing to hold office, need to be brought to the attention of members or creditors of the company (as required by section 519(3B)).**]**

(2) He may **[**F683send**]** with the notice **[**F684an authenticated**]** requisition calling on the directors of the company forthwith duly to convene a general meeting of the company for the purpose of receiving and considering such explanation of the **[**F685reasons for, and matters connected with,**]** his resignation as he may wish to place before the meeting.

(3) He may request the company to circulate to its members—

(a) before the meeting convened on his requisition, or

(b) before any general meeting at which his term of office would otherwise have expired or at which it is proposed to fill the vacancy caused by his resignation,

a statement in writing (not exceeding a reasonable length) of the **[**F686reasons for, and matters connected with,**]** his resignation.

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

(a) in any notice of the meeting given to members of the company, state the fact of the statement having been made, and

(b) send a copy of the statement to every member of the company to whom notice of the meeting is or has been sent.

(5) The directors must within 21 days from the date **[**F687on which the company receives**]** a requisition under this section proceed duly to convene a meeting for a day not more than 28 days after the date on which the notice convening the meeting is given.

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

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

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

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

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

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

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

(10) An auditor who has resigned has, notwithstanding his resignation, the rights conferred by section 502(2) in relation to any such general meeting of the company as is mentioned in subsection (3)(a) or (b) above.

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

Textual Amendments

F682 Words in s. 518(1) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 5(2)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F683 Word in s. 518(2) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 17(2)(a)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F684 Words in s. 518(2) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 17(2)(b)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F685 Words in s. 518(2) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 5(3)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F686 Words in s. 518(3) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 5(4)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F687 Words in s. 518(5) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 17(3)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

Modifications etc. (not altering text)

C1002 Ss. 515-518 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 45**; (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), Sch. 3 para. 18 (with reg. 2(6)(7))

C1003 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

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Statement by auditor on ceasing to hold office

519 Statement by auditor to be [F688sent to] company

[F689(1) An auditor of a public interest company who is ceasing to hold office (at any time and for any reason) must send to the company a statement of the reasons for doing so.

(2) An auditor ("A") of a non-public interest company who is ceasing to hold office must send to the company a statement of the reasons for doing so unless A satisfies the first or second condition.

(2A) The first condition is that A is ceasing to hold office—

(a) in the case of a private company, at the end of a period for appointing auditors;

(b) in the case of a public company, at the end of an accounts meeting.

(2B) The second condition is that—

(a) A's reasons for ceasing to hold office are all exempt reasons (as to which see section 519A(3)), and

(b) there are no matters connected with A's ceasing to hold office that A considers need to be brought to the attention of members or creditors of the company.

(3) A statement under this section must include—

(a) the auditor's name and address;

(b) the number allocated to the auditor on being entered in the register of auditors kept under section 1239;

(c) the company's name and registered number.

(3A) Where there are matters connected with an auditor's ceasing to hold office that the auditor considers need to be brought to the attention of members or creditors of the company, the statement under this section must include details of those matters.

(3B) Where—

(a) an auditor ("A") of a non-public interest company is required by subsection (2) to send a statement, and

(b) A considers that none of the reasons for A's ceasing to hold office, and no matters (if any) connected with A's ceasing to hold office, need to be brought to the attention of members or creditors of the company,

A's statement under this section must include a statement to that effect.**]**

(4) **[**F690A statement under this section**]** must be **[**F691sent**]**—

(a) in the case of resignation, along with the notice of resignation;

(b) in the case of failure to seek re-appointment, not less than 14 days before the end of the time allowed for next appointing an auditor;

(c) in any other case, not later than the end of the period of 14 days beginning with the date on which he ceases to hold office.

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

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

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

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

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

[F692(8) Where an offence under this section is committed by a body corporate, every officer of the body who is in default also commits the offence. For this purpose—

(a) any person who purports to act as director, manager or secretary of the body is treated as an officer of the body, and

(b) if the body is a company, any shadow director is treated as an officer of the company.**]**

Textual Amendments

F688 Words in s. 519 heading substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 18(3)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F689 S. 519(1)-(3B) substituted for s. 519(1)-(3) (1.10.2015) by Deregulation Act 2015 (c. 20), **ss. 18(2)**, 115(7); S.I. 2015/1732, art. 2(d) (with arts. 46)

F690 Words in s. 519(4) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 6**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F691 Word in s. 519(4) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 18(2)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F692 S. 519(8) added (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 247** (with arts. 6, 11, 12)

Modifications etc. (not altering text)

C1004 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1005 Ss. 519-526 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 46**; (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 19** (with reg. 2(6)(7)); (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **53**; 2020 c. 1, **Sch. 5 para. 1(1)**; and (6.5.2021) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Reports) (Authorised Person) Order 2021 (S.I. 2021/465), arts. 1(2), **6(5)** (with art. 9))

[F693**519A Meaning of "public interest company", "non-public interest company" and "exempt reasons"**

(1) In this Chapter—

[F694"public interest company" means a company which is—

(a) an issuer whose transferable securities are admitted to trading on a **[**F695UK regulated market**]**;

(b) a credit institution within the meaning given by Article 4(1)(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council, **[**F696which is a CRR firm within the meaning of Article 4(1)(2A) of that Regulation**]**; or

(c) **[**F697a person who would be an insurance undertaking as defined in Article 2(1) of Council Directive 91/674/EEC of 19 December 1991

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of the European Parliament and of the Council on the annual accounts and consolidated accounts of insurance undertakings as that Article had effect immediately before IP completion day, were the United Kingdom a member State;**]]**

[F698(2) For the purposes of the definition of "public interest company"—

"issuer" has the same meaning as in Part 6 of the Financial Services and Markets Act 2000 (see section 102A(6));

F699 …

F699 …**]**

(3) In the application of this Chapter to an auditor ("A") of a company ceasing to hold office, the following are "exempt reasons"—

(a) A is no longer to carry out statutory audit work within the meaning of Part 42 (see section 1210(1));

(b) the company is, or is to become, exempt from audit under section 477, 479A or 480, or from the requirements of this Part under section 482, and intends to include in its balance sheet a statement of the type described in section 475(2);

(c) the company is a subsidiary undertaking of a parent undertaking that is incorporated in the United Kingdom and—

(i) the parent undertaking prepares group accounts, and

(ii) A is being replaced as auditor of the company by the auditor who is conducting, or is to conduct, an audit of the group accounts;

(d) the company is being wound up under Part 4 of the Insolvency Act 1986 or Part 5 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), whether voluntarily or by the court, or a petition under Part 4 of that Act or Part 5 of that Order for the winding up of the company has been presented and not finally dealt with or withdrawn.

(4) But the reason described in subsection (3)(c) is only an exempt reason if the auditor who is conducting, or is to conduct, an audit of the group accounts is also conducting, or is also to conduct, the audit (if any) of the accounts of each of the subsidiary undertakings (of the parent undertaking) that is incorporated in the United Kingdom and included in the consolidation.

(5) The Secretary of State may by order amend the definition of "public interest company" in subsection (1).

(6) An order under subsection (5) is subject to negative resolution procedure.**]**

Textual Amendments

F693 S. 519A inserted (1.10.2015) by Deregulation Act 2015 (c. 20), **ss. 18(3)**, 115(7); S.I. 2015/1732, art. 2(d) (with arts. 4, 6)

F694 Words in s. 519A(1) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 26(2)** (with reg. 1(12))

F695 Words in s. 519A(1) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **8(a)(i)** (with Sch. 4 para. 1(a)) (as amended by S.I. 2020/523, regs. 1(2), **19**); 2020 c. 1, **Sch. 5 para. 1(1)**

F696 Words in s. 519A(1) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **8(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

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F697 Words in s. 519A(1) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **8(a)(iii)** (as amended by S.I. 2020/523, regs. 1(2), **14(c)**); 2020 c. 1, **Sch. 5 para. 1(1)**

F698 S. 519A(2) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 26(3)** (with reg. 1(12))

F699 Words in s. 519A(2) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **8(b)**; 2020 c. 1, Sch. 5 para. 1(1)

520 Company's duties in relation to statement

(1) This section applies where **[**F700a company receives from an auditor ("A") who is ceasing to hold office a statement under section 519 except where—

(a) the company is a non-public interest company, and

(b) the statement includes a statement to the effect that A considers that none of the reasons for A's ceasing to hold office, and no matters (if any) connected with A's ceasing to hold office, need to be brought to the attention of members or creditors of the company (as required by section 519(3B)).**]**

(2) **[**F701Where this section applies, the**]** company must within 14 days of the **[**F702receipt**]** of the statement either—

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

(b) apply to the court.

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

(4) If the court is satisfied that the auditor is using the provisions of section 519 to secure needless publicity for defamatory matter—

(a) it shall direct that copies of the statement need not be sent out, and

(b) it may further order the company's costs (in Scotland, expenses) on the application to be paid in whole or in part by the auditor, even if he is not a party to the application.

The company must within 14 days of the court's decision send to the persons mentioned in subsection (2)(a) a statement setting out the effect of the order.

(5) If no such direction is made the company must send copies of the statement to the persons mentioned in subsection (2)(a) within 14 days of the court's decision or, as the case may be, of the discontinuance of the proceedings.

(6) In the event of default in complying with this section an offence is committed by every officer of the company who is in default.

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

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

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

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

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Textual Amendments

F700 Words in s. 520(1) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 7(2)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F701 Words in s. 520(2) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 7(3)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F702 Word in s. 520(2) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 19**; S.I. 2015/1732, art. 2(d) (with arts. 46)

Modifications etc. (not altering text)

C1005 Ss. 519-526 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 46**; (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 19** (with reg. 2(6)(7)); (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **53**; 2020 c. 1, **Sch. 5 para. 1(1)**; and (6.5.2021) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Reports) (Authorised Person) Order 2021 (S.I. 2021/465), arts. 1(2), **6(5)** (with art. 9))

C1006 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

521 Copy of statement to be sent to registrar

[F703(A1) This section applies where an auditor ("A") of a company sends a statement to the company under section 519 except where—

(a) the company is a non-public interest company, and

(b) the statement includes a statement to the effect that A considers that none of the reasons for A's ceasing to hold office, and no matters (if any) connected with A's ceasing to hold office, need to be brought to the attention of members or creditors of the company (as required by section 519(3B)).**]**

(1) **[**F704Where this section applies, unless**]** within 21 days beginning with the day on which he **[**F705sent**]** the statement under section 519 the auditor receives notice of an application to the court under section 520, he must within a further seven days send a copy of the statement to the registrar.

(2) If an application to the court is made under section 520 and the auditor subsequently receives notice under subsection (5) of that section, he must within seven days of receiving the notice send a copy of the statement to the registrar.

(3) An auditor who fails to comply with subsection (1) or (2) commits an offence.

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

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

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

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

[F706(6) Where an offence under this section is committed by a body corporate, every officer of the body who is in default also commits the offence. For this purpose—

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(a) any person who purports to act as director, manager or secretary of the body is treated as an officer of the body, and

(b) if the body is a company, any shadow director is treated as an officer of the company.**]**

Textual Amendments

F703 S. 521(A1) inserted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 8(2)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F704 Words in s. 521(1) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 8(3)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F705 Word in s. 521(1) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 20**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F706 S. 521(6) added (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 248** (with arts. 6, 11, 12)

Modifications etc. (not altering text)

C1005 Ss. 519-526 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 46**; (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 19** (with reg. 2(6)(7)); (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **53**; 2020 c. 1, **Sch. 5 para. 1(1)**; and (6.5.2021) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Reports) (Authorised Person) Order 2021 (S.I. 2021/465), arts. 1(2), **6(5)** (with art. 9))

C1007 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

522 Duty of auditor to [F707send statement to] appropriate audit authority

[F708(1) Where an auditor of a company sends a statement under section 519, the auditor must at the same time send a copy of the statement to the appropriate audit authority.**]**

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

(6) If that person is a firm an offence is committed by—

(a) the firm, and

(b) every officer of the firm who is in default.

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

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

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

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

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Textual Amendments

F707 Words in s. 522 heading substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 9(3)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F708 S. 522(1) substituted for s. 522(1)-(4) (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 9(2)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

Modifications etc. (not altering text)

C1005 Ss. 519-526 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 46**; (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 19** (with reg. 2(6)(7)); (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **53**; 2020 c. 1, **Sch. 5 para. 1(1)**; and (6.5.2021) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Reports) (Authorised Person) Order 2021 (S.I. 2021/465), arts. 1(2), **6(5)** (with art. 9))

C1008 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

523 Duty of company to notify appropriate audit authority

[F709(1) This section applies if an auditor is ceasing to hold office—

(a) in the case of a private company, at any time other than at the end of a period for appointing auditors;

(b) in the case of a public company, at any time other than at the end of an accounts meeting.

(1A) But this section does not apply if the company reasonably believes that the only reasons for the auditor's ceasing to hold office are exempt reasons (as to which see section 519A(3)).

(2) Where this section applies, the company must give notice to the appropriate audit authority that the auditor is ceasing to hold office.

(2A) The notice is to take the form of a statement by the company of what the company believes to be the reasons for the auditor's ceasing to hold office and must include the information listed in section 519(3).

This is subject to subsection (2C).

(2B) Subsection (2C) applies where—

(a) the company receives a statement from the auditor under section 519,

(b) the statement is sent at the time required by section 519(4), and

(c) the company agrees with the contents of the statement.

(2C) Where this subsection applies, the notice may instead take the form of a copy of the statement endorsed by the company to the effect that it agrees with the contents of the statement.

(3) A notice under this section must be given within the period of 28 days beginning with the day on which the auditor ceases to hold office.**]**

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(4) If a company fails to comply with this section, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

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

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

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

Textual Amendments

F709 S. 523(1)-(3) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), **ss. 18(4)**, 115(7); S.I. 2015/1732, art. 2(d) (with arts. 46)

Modifications etc. (not altering text)

C1005 Ss. 519-526 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 46**; (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 19** (with reg. 2(6)(7)); (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **53**; 2020 c. 1, **Sch. 5 para. 1(1)**; and (6.5.2021) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Reports) (Authorised Person) Order 2021 (S.I. 2021/465), arts. 1(2), **6(5)** (with art. 9))

C1009 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

524 [F710Provision of information] to accounting authorities

[F711(1) Where the appropriate audit authority receives a statement under section 522 or a notice under section 523, the authority may forward to the accounting authorities—

(a) a copy of the statement or notice, and

(b) any other information the authority has received from the auditor or the company concerned in connection with the auditor's ceasing to hold office.]

(2) The accounting authorities are—

(a) the Secretary of State, and

(b) any person authorised by the Secretary of State for the purposes of section 456 (revision of defective accounts: persons authorised to apply to court).

F712(3) . . . . . .

(4) If the court has made an order under section 520(4) directing that copies of the statement need not be sent out by the company, sections 460 and 461 (restriction on further disclosure) apply in relation to the copies sent to the accounting authorities as they apply to information obtained under section 459 (power to require documents etc).

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Textual Amendments

F710 Words in s. 524 heading substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 10(4)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F711 S. 524(1) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 10(2)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F712 S. 524(3) omitted (1.10.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 10(3)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

Modifications etc. (not altering text)

C1005 Ss. 519-526 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 46**; (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 19** (with reg. 2(6)(7)); (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **53**; 2020 c. 1, **Sch. 5 para. 1(1)**; and (6.5.2021) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Reports) (Authorised Person) Order 2021 (S.I. 2021/465), arts. 1(2), **6(5)** (with art. 9))

C1010 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1011 S. 524(2)(b) modified (2.7.2012) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Directors' Reports) (Authorised Person) Order 2012 (S.I. 2012/1439), **art. 8(5)**

525 Meaning of "appropriate audit authority" F713...

(1) In sections 522, 523 and 524 "appropriate audit authority" means—

(a) **[**F714in relation to an auditor of a public interest company (other than an Auditor General)**]**—

(i) the Secretary of State, or

(ii) if the Secretary of State has delegated functions under section 1252 to a body whose functions include receiving the **[**F715statement or**]** notice in question, that body;

[F716(a) in the case of a major audit (other than one conducted by an Auditor General), the Financial Reporting Council Limited;**]**

(b) **[**F717in relation to an auditor of a non-public interest company (other than an Auditor General)**]**, the relevant supervisory body.

[F718(c) **[**F719in relation to**]** an Auditor General, the Independent Supervisor.**]**

[F720 "Supervisory body" and "Independent Supervisor" have the same meaning**]** as in Part 42 (statutory auditors) (see **[**F721sections 1217 and 1228**]**).

F722(2) . . . . . .

F722(3) . . . . . .

Textual Amendments

F713 Words in s. 525 heading omitted (1.10.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 11(4)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

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F714 Words in s. 525(1)(a) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 11(2)(a)(i)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F715 Words in s. 525(1)(a)(ii) inserted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 11(2)(a)(ii)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F716 S. 525(1)(a) (as it applies to LLPs by virtue of S.I. 2008/1911, reg. 46) substituted (2.7.2012) by The Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 (S.I. 2012/1741), arts. 1(2), 3, **Sch. para. 3**

F717 Words in s. 525(1)(b) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 11(2)(b)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F718 S. 525(1)(c) inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 41(4)**

F719 Words in s. 525(1)(c) substituted (1.10.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 11(2)(c)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

F720 Words in s. 525(1) substituted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 41(5)(a)**

F721 Words in s. 525(1) substituted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 41(5)(b)**

F722 S. 525(2)(3) omitted (1.10.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 5 para. 11(3)**; S.I. 2015/1732, art. 2(d) (with arts. 46)

Modifications etc. (not altering text)

C1005 Ss. 519-526 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 46**; (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 19** (with reg. 2(6)(7)); (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **53**; 2020 c. 1, **Sch. 5 para. 1(1)**; and (6.5.2021) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Reports) (Authorised Person) Order 2021 (S.I. 2021/465), arts. 1(2), **6(5)** (with art. 9))

C1012 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Supplementary

526 Effect of casual vacancies

If an auditor ceases to hold office for any reason, any surviving or continuing auditor or auditors may continue to act.

Modifications etc. (not altering text)

C1005 Ss. 519-526 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 46**; (as amended (with effect in accordance with reg. 2(5)(a) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 19** (with reg. 2(6)(7)); (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **53**; 2020 c. 1, **Sch. 5 para. 1(1)**; and (6.5.2021) by The Supervision of Accounts and Reports (Prescribed Body) and Companies (Defective Accounts and Reports) (Authorised Person) Order 2021 (S.I. 2021/465), arts. 1(2), **6(5)** (with art. 9))

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C1013 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

CHAPTER 5

QUOTED COMPANIES: RIGHT OF MEMBERS TO RAISE AUDIT CONCERNS AT ACCOUNTS MEETING

527 Members' power to require website publication of audit concerns

(1) The members of a quoted company may require the company to publish on a website a statement setting out any matter relating to—

(a) the audit of the company's accounts (including the auditor's report and the conduct of the audit) that are to be laid before the next accounts meeting, or

(b) any circumstances connected with an auditor of the company ceasing to hold office since the previous accounts meeting,

that the members propose to raise at the next accounts meeting of the company.

(2) A company is required to do so once it has received requests to that effect from—

(a) members representing at least 5% of the total voting rights of all the members who have a relevant right to vote (excluding any voting rights attached to any shares in the company held as treasury shares), or

(b) at least 100 members who have a relevant right to vote and hold shares in the company on which there has been paid up an average sum, per member, of at least £100.

See also section 153 (exercise of rights where shares held on behalf of others).

(3) In subsection (2) a "relevant right to vote" means a right to vote at the accounts meeting.

(4) A request—

(a) may be sent to the company in hard copy or electronic form,

(b) must identify the statement to which it relates,

(c) must be authenticated by the person or persons making it, and

(d) must be received by the company at least one week before the meeting to which it relates.

(5) A quoted company is not required to place on a website a statement under this section if, on an application by the company or another person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused.

(6) The court may order the members requesting website publication to pay the whole or part of the company's costs (in Scotland, expenses) on such an application, even if they are not parties to the application.

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Modifications etc. (not altering text)

C1014 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

528 Requirements as to website availability

(1) The following provisions apply for the purposes of section 527 (website publication of members' statement of audit concerns).

(2) The information must be made available on a website that—

(a) is maintained by or on behalf of the company, and

(b) identifies the company in question.

(3) Access to the information on the website, and the ability to obtain a hard copy of the information from the website, must not be conditional on the payment of a fee or otherwise restricted.

(4) The statement—

(a) must be made available within three working days of the company being required to publish it on a website, and

(b) must be kept available until after the meeting to which it relates.

(5) A failure to make information available on a website throughout the period specified in subsection (4)(b) is disregarded if—

(a) the information is made available on the website for part of that period, and

(b) the failure is wholly attributable to circumstances that it would not be reasonable to have expected the company to prevent or avoid.

Modifications etc. (not altering text)

C1015 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

529 Website publication: company's supplementary duties

(1) A quoted company must in the notice it gives of the accounts meeting draw attention to—

(a) the possibility of a statement being placed on a website in pursuance of members' requests under section 527, and

(b) the effect of the following provisions of this section.

(2) A company may not require the members requesting website publication to pay its expenses in complying with that section or section 528 (requirements in connection with website publication).

(3) Where a company is required to place a statement on a website under section 527 it must forward the statement to the company's auditor not later than the time when it makes the statement available on the website.

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(4) The business which may be dealt with at the accounts meeting includes any statement that the company has been required under section 527 to publish on a website.

Modifications etc. (not altering text)
C1016 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

530 Website publication: offences

(1) In the event of default in complying with

(a) section 528 (requirements as to website publication), or

(b) section 529 (companies' supplementary duties in relation to request for website publication),

an offence is committed by every officer of the company who is in default.

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

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

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

Modifications etc. (not altering text)
C1017 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

531 Meaning of "quoted company"

(1) For the purposes of this Chapter a company is a quoted company if it is a quoted company in accordance with section 385 (quoted and unquoted companies for the purposes of Part 15) in relation to the financial year to which the accounts to be laid at the next accounts meeting relate.

(2) The provisions of subsections (4) to (6) of that section (power to amend definition by regulations) apply in relation to the provisions of this Chapter as in relation to the provisions of that Part.

Modifications etc. (not altering text)
C1018 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

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CHAPTER 6

AUDITORS' LIABILITY

Voidness of provisions protecting auditors from liability

532 Voidness of provisions protecting auditors from liability

(1) This section applies to any provision—

(a) for exempting an auditor of a company (to any extent) from any liability that would otherwise attach to him in connection with any negligence, default, breach of duty or breach of trust in relation to the company occurring in the course of the audit of accounts, or

(b) by which a company directly or indirectly provides an indemnity (to any extent) for an auditor of the company, or of an associated company, against any liability attaching to him in connection with any negligence, default, breach of duty or breach of trust in relation to the company of which he is auditor occurring in the course of the audit of accounts.

(2) Any such provision is void, except as permitted by—

(a) section 533 (indemnity for costs of successfully defending proceedings), or

(b) sections 534 to 536 (liability limitation agreements).

(3) This section applies to any provision, whether contained in a company's articles or in any contract with the company or otherwise.

(4) For the purposes of this section companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

Modifications etc. (not altering text)

C1019 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Indemnity for costs of defending proceedings

533 Indemnity for costs of successfully defending proceedings

Section 532 (general voidness of provisions protecting auditors from liability) does not prevent a company from indemnifying an auditor against any liability incurred by him—

(a) in defending proceedings (whether civil or criminal) in which judgment is given in his favour or he is acquitted, or

(b) in connection with an application under section 1157 (power of court to grant relief in case of honest and reasonable conduct) in which relief is granted to him by the court.

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Modifications etc. (not altering text)

C1020 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I211 S. 533 wholly in force at 6.4.2008; s. 533 not in force at Royal Assent see s. 1300; s. 533 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(e)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 para. 11 and with savings in Sch. 4 paras. 9-19)

Liability limitation agreements

534 Liability limitation agreements

(1) A "liability limitation agreement" is an agreement that purports to limit the amount of a liability owed to a company by its auditor in respect of any negligence, default, breach of duty or breach of trust, occurring in the course of the audit of accounts, of which the auditor may be guilty in relation to the company.

(2) Section 532 (general voidness of provisions protecting auditors from liability) does not affect the validity of a liability limitation agreement that—

(a) complies with section 535 (terms of liability limitation agreement) and of any regulations under that section, and

(b) is authorised by the members of the company (see section 536).

(3) Such an agreement—

(a) is effective to the extent provided by section 537, and

(b) is not subject—

(i) in England and Wales or Northern Ireland, to section 2(2) or 3(2)(a) of the Unfair Contract Terms Act 1977 (c. 50);

(ii) in Scotland, to section 16(1)(b) or 17(1)(a) of that Act.

Modifications etc. (not altering text)

C1021 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

535 Terms of liability limitation agreement

(1) A liability limitation agreement—

(a) must not apply in respect of acts or omissions occurring in the course of the audit of accounts for more than one financial year, and

(b) must specify the financial year in relation to which it applies.

(2) The Secretary of State may by regulations—

(a) require liability limitation agreements to contain specified provisions or provisions of a specified description;

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(b) prohibit liability limitation agreements from containing specified provisions or provisions of a specified description.

"Specified" here means specified in the regulations.

(3) Without prejudice to the generality of the power conferred by subsection (2), that power may be exercised with a view to preventing adverse effects on competition.

(4) Subject to the preceding provisions of this section, it is immaterial how a liability limitation agreement is framed.

In particular, the limit on the amount of the auditor's liability need not be a sum of money, or a formula, specified in the agreement.

(5) Regulations under this section are subject to negative resolution procedure.

Modifications etc. (not altering text)

C1022 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I212 S. 535 wholly in force at 6.4.2008; s. 535 not in force at Royal Assent, see s. 1300; s. 535 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 535 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 9-19)

536 Authorisation of agreement by members of the company

(1) A liability limitation agreement is authorised by the members of the company if it has been authorised under this section and that authorisation has not been withdrawn.

(2) A liability limitation agreement between a private company and its auditor may be authorised—

(a) by the company passing a resolution, before it enters into the agreement, waiving the need for approval,

(b) by the company passing a resolution, before it enters into the agreement, approving the agreement's principal terms, or

(c) by the company passing a resolution, after it enters into the agreement, approving the agreement.

(3) A liability limitation agreement between a public company and its auditor may be authorised—

(a) by the company passing a resolution in general meeting, before it enters into the agreement, approving the agreement's principal terms, or

(b) by the company passing a resolution in general meeting, after it enters into the agreement, approving the agreement.

(4) The "principal terms" of an agreement are terms specifying, or relevant to the determination of—

(a) the kind (or kinds) of acts or omissions covered,

(b) the financial year to which the agreement relates, or

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(c) the limit to which the auditor's liability is subject.

(5) Authorisation under this section may be withdrawn by the company passing an ordinary resolution to that effect—

(a) at any time before the company enters into the agreement, or

(b) if the company has already entered into the agreement, before the beginning of the financial year to which the agreement relates.

Paragraph (b) has effect notwithstanding anything in the agreement.

Modifications etc. (not altering text)

C1023 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

537 Effect of liability limitation agreement

(1) A liability limitation agreement is not effective to limit the auditor's liability to less than such amount as is fair and reasonable in all the circumstances of the case having regard (in particular) to—

(a) the auditor's responsibilities under this Part,

(b) the nature and purpose of the auditor's contractual obligations to the company, and

(c) the professional standards expected of him.

(2) A liability limitation agreement that purports to limit the auditor's liability to less than the amount mentioned in subsection (1) shall have effect as if it limited his liability to that amount.

(3) In determining what is fair and reasonable in all the circumstances of the case no account is to be taken of—

(a) matters arising after the loss or damage in question has been incurred, or

(b) matters (whenever arising) affecting the possibility of recovering compensation from other persons liable in respect of the same loss or damage.

Modifications etc. (not altering text)

C1024 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

538 Disclosure of agreement by company

(1) A company which has entered into a liability limitation agreement must make such disclosure in connection with the agreement as the Secretary of State may require by regulations.

(2) The regulations may provide, in particular, that any disclosure required by the regulations shall be made—

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(a) in a note to the company's annual accounts (in the case of its individual accounts) or in such manner as is specified in the regulations (in the case of group accounts), or

(b) in the directors' report.

(3) Regulations under this section are subject to negative resolution procedure.

Modifications etc. (not altering text)

C1025 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I213 S. 538 wholly in force at 6.4.2008; s. 538 not in force at Royal Assent, see s. 1300; s. 538 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 538 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(d)** (with arts. 7, 12, Sch. 4 paras. 9-19)

[F723 538A Meaning of "corporate governance statement" etc

(1) In this Part " corporate governance statement " means the statement required by rules 7.2.1 to 7.2.11 in the Disclosure Rules and Transparency Rules sourcebook [F724 made by the Financial Conduct Authority] .

F725(2) . . . . . .

(3) A "separate" corporate governance statement means one that is not included in the directors' report.]

Textual Amendments

F723 S. 538A inserted (27.6.2009) by The Companies Act 2006 (Accounts, Reports and Audit) Regulations 2009 (S.I. 2009/1581), **reg. 8** (with application as stated in reg. 1(3))

F724 Words in s. 538A(1) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments) Order 2013 (S.I. 2013/636), art. 1(2), **Sch. para. 9(5)(a)**

F725 S. 538A(2) omitted (1.4.2013) by virtue of The Financial Services Act 2012 (Consequential Amendments) Order 2013 (S.I. 2013/636), art. 1(2), **Sch. para. 9(5)(b)**

Modifications etc. (not altering text)

C1026 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

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CHAPTER 7

SUPPLEMENTARY PROVISIONS

539 Minor definitions

In this Part—

"e-money issuer" **[**F726means—

(a) an electronic money institution, within the meaning of the Electronic Money Regulations 2011 (S.I. 2011/99), or**]**

(b) a person who has permission under **[**F727Part 4A**]** of the Financial Services and Markets Act 2000 (c. 8) to carry on the activity of issuing electronic money within the meaning of article 9B of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544);

F728 . . . . . .

[F729 "MiFID investment firm" means an investment firm within the meaning of **[**F730Article 2(1A) of Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No. 648/2012**]**, other than—

(a) a company **[**F731which is exempted from the definition of "investment firm" by Schedule 3 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544)**]**, F732...

(b) **[**F733a company which is an exempt investment firm as defined by regulation 8 (Meaning of "exempt investment firm" in Chapter 1) of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 **[**F734(S.I. 2017/701), and**]]**

(c) **[**F735any other company which fulfils all the requirements set out in regulation 6(3) of those Regulations;**]]**

"qualified", in relation to an auditor's report (or a statement contained in an auditor's report), means that the report or statement does not state the auditor's unqualified opinion that the accounts have been properly prepared in accordance with this Act or, in the case of an undertaking not required to prepare accounts in accordance with this Act, under any corresponding legislation under which it is required to prepare accounts;

"turnover", in relation to a company, means the amounts derived from the provision of goods and services falling within the company's ordinary activities, after deduction of—

(a) trade discounts,

(b) value added tax, and

(c) any other taxes based on the amounts so derived;

"UCITS management company" has the meaning given by the Glossary forming part of the Handbook made by the **[**F736Financial Conduct Authority**]** under the Financial Services and Markets Act 2000.

Textual Amendments

F726 Words in definition of "e-money issuer" in s. 539 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Companies and Partnerships (Accounts and Audit) Regulations 2013 (S.I. 2013/2005), regs. 1(1), **2(9)** (with reg. 1(5)(6))

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F727 Words in s. 539 substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 116** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

F728 S. 539: definition omitted (1.11.2007) by virtue of The Markets in Financial Instruments Directive (Consequential Amendments) Regulations 2007 (S.I. 2007/2932), **reg. 3(7)(a)**

F729 S. 539: definition inserted (1.11.2007) by The Markets in Financial Instruments Directive (Consequential Amendments) Regulations 2007 (S.I. 2007/2932), **reg. 3(7)(b)**

F730 Words in s. 539 substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **9(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F731 Words in s. 539 substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **9(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F732 Word in s. 539 omitted (21.7.2018) by virtue of The Financial Services and Markets Act 2000 (Prospectus and Markets in Financial Instruments) Regulations 2018 (S.I. 2018/786), regs. 1, **3(a)**

F733 Words in s. 539 substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not in force) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (S.I. 2017/701), reg. 1(2)(3)(4)(6), **Sch. 4 para. 9(5)(c)** (with reg. 7)

F734 Words in s. 539 substituted (21.7.2018) by The Financial Services and Markets Act 2000 (Prospectus and Markets in Financial Instruments) Regulations 2018 (S.I. 2018/786), regs. 1, **3(b)**

F735 Words in s. 539 inserted (21.7.2018) by The Financial Services and Markets Act 2000 (Prospectus and Markets in Financial Instruments) Regulations 2018 (S.I. 2018/786), regs. 1, **3(c)**

F736 Words in s. 539 substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments) Order 2013 (S.I. 2013/636), art. 1(2), **Sch. para. 9(6)**

Modifications etc. (not altering text)

C1027 Ss. 484-539 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 11** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1028 S. 539 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 47** (as amended (1.4.2013) by S.I. 2013/472, Sch. 2 para. 143(c) and as amended (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **54**; 2020 c. 1, Sch. 5 para. 1(1))

PART 17

A COMPANY'S SHARE CAPITAL

Modifications etc. (not altering text)

C1029 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

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CHAPTER 1

SHARES AND SHARE CAPITAL OF A COMPANY

Shares

540 Shares

(1) In the Companies Acts"share", in relation to a company, means share in the company's share capital.

(2) A company's shares may no longer be converted into stock.

(3) Stock created before the commencement of this Part may be reconverted into shares in accordance with section 620.

(4) In the Companies Acts—

(a) references to shares include stock except where a distinction between share and stock is express or implied, and

(b) references to a number of shares include an amount of stock where the context admits of the reference to shares being read as including stock.

Commencement Information

I214 S. 540 wholly in force at 1.10.2009; s. 540 not in force at Royal Assent see s. 1300; s. 540(1)(4) in force for certain purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(3)(c)** (with saving in art. 12); s. 540(1)(4) in force for certain further purposes at 6.4.2008 by S.I. 2007/3495, **art. 3(3)(b)** (with savings in arts. 7, 12); s. 540 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

541 Nature of shares

The shares or other interest of a member in a company are personal property (or, in Scotland, moveable property) and are not in the nature of real estate (or heritage).

542 Nominal value of shares

(1) Shares in a limited company having a share capital must each have a fixed nominal value.

(2) An allotment of a share that does not have a fixed nominal value is void.

(3) Shares in a limited company having a share capital may be denominated in any currency, and different classes of shares may be denominated in different currencies.

But see section 765 (initial authorised minimum share capital requirement for public company to be met by reference to share capital denominated in sterling or euros).

(4) If a company purports to allot shares in contravention of this section, an offence is committed by every officer of the company who is in default.

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

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

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

543 Numbering of shares

(1) Each share in a company having a share capital must be distinguished by its appropriate number, except in the following circumstances.

(2) If at any time—

(a) all the issued shares in a company are fully paid up and rank *pari passu* for all purposes, or

(b) all the issued shares of a particular class in a company are fully paid up and rank *pari passu* for all purposes,

none of those shares need thereafter have a distinguishing number so long as it remains fully paid up and ranks *pari passu* for all purposes with all shares of the same class for the time being issued and fully paid up.

544 Transferability of shares

(1) The shares or other interest of any member in a company are transferable in accordance with the company's articles.

(2) This is subject to—

(a) the Stock Transfer Act 1963 (c. 18) or the Stock Transfer Act (Northern Ireland) 1963 (c. 24 (N.I.)) (which enables securities of certain descriptions to be transferred by a simplified process), and

(b) regulations under Chapter 2 of Part 21 of this Act (which enable title to securities to be evidenced and transferred without a written instrument).

(3) See Part 21 of this Act generally as regards share transfers.

545 Companies having a share capital

References in the Companies Acts to a company having a share capital are to a company that has power under its constitution to issue shares.

Commencement Information

I215 S. 545 wholly in force at 1.10.2009; s. 545 not in force at Royal Assent see s. 1300; s. 545 in force at 1.10.2007 for certain purposes by S.I. 2007/2194, **art. 2(3)(d)** (with savings in art. 12); s. 545 in force at 6.4.2008 for certain further purposes by S.I. 2007/3495, **art. 3(3)(c)** (with savings in arts. 7, 12); s. 545 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

546 Issued and allotted share capital

(1) References in the Companies Acts—

(a) to "issued share capital" are to shares of a company that have been issued;

(b) to "allotted share capital" are to shares of a company that have been allotted.

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(2) References in the Companies Acts to issued or allotted shares, or to issued or allotted share capital, include shares taken on the formation of the company by the subscribers to the company's memorandum.

Modifications etc. (not altering text)

C1030S. 546 applied (6.4.2007) by The Companies Acts (Unregistered Companies) Regulations 2007 (S.I. 2007/318), reg. 3, **Sch.** (with reg. 6)

Commencement Information

I216 S. 546 wholly in force at 1.10.2009; s. 546 not in force at Royal Assent see s. 1300; s. 546 in force for certain purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(a)** (with art. 11(1)); s. 546 in force for certain further purposes at 1.10.2007 and 1.11.2007 by S.I. 2007/2194, **arts. 2(3)(e)**, **3(2)(a)** (with saving in art. 12); s. 546 in force for certain further purposes at 6.4.2008 by S.I. 2007/3495, **art. 3(3)(d)** (with savings in arts. 7, 12); s. 546 in force otherwise at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Share capital

547 Called-up share capital

In the Companies Acts—

"called-up share capital", in relation to a company, means so much of its share capital as equals the aggregate amount of the calls made on its shares (whether or not those calls have been paid), together with—

(a) any share capital paid up without being called, and

(b) any share capital to be paid on a specified future date under the articles, the terms of allotment of the relevant shares or any other arrangements for payment of those shares; and

"uncalled share capital" is to be construed accordingly.

548 Equity share capital

In the Companies Acts"equity share capital", in relation to a company, means its issued share capital excluding any part of that capital that, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution.

Commencement Information

I217 S. 548 wholly in force at 1.10.2009; s. 548 not in force at Royal Assent see s. 1300; s. 548 in force for certain purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(3)(f)** (with saving in art. 12); s. 548 in force for certain purposes at 6.4.2008 by S.I. 2007/3495, **art. 3(3)(e)** (with savings in arts. 7, 12); s. 548 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

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CHAPTER 2

ALLOTMENT OF SHARES: GENERAL PROVISIONS

Power of directors to allot shares

549 Exercise by directors of power to allot shares etc

(1) The directors of a company must not exercise any power of the company—

(a) to allot shares in the company, or

(b) to grant rights to subscribe for, or to convert any security into, shares in the company,

except in accordance with section 550 (private company with single class of shares) or section 551 (authorisation by company).

(2) Subsection (1) does not apply—

(a) to the allotment of shares in pursuance of an employees' share scheme, or

(b) to the grant of a right to subscribe for, or to convert any security into, shares so allotted.

[[F737](3) Subsection (1) does not apply to the allotment of shares pursuant to a right to subscribe for, or to convert any security into, shares in the company.**]**

[[F738](3A) Subsection (1) does not apply to anything done for the purposes of a compromise or arrangement sanctioned in accordance with Part 26A (arrangements and reconstructions: companies in financial difficulty).**]**

(4) A director who knowingly contravenes, or permits or authorises a contravention of, this section commits an offence.

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

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

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

(6) Nothing in this section affects the validity of an allotment or other transaction.

Textual Amendments

F737 S. 549(3) substituted (1.10.2009) by The Companies Act 2006 (Allotment of Shares and Right of Pre-emption) (Amendment) Regulations 2009 (S.I. 2009/2561), **reg. 2(1)**

F738 S. 549(3A) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 33(2)** (with ss. 2(2), 5(2))

550 Power of directors to allot shares etc: private company with only one class of shares

Where a private company has only one class of shares, the directors may exercise any power of the company—

(a) to allot shares of that class, or

(b) to grant rights to subscribe for or to convert any security into such shares,

except to the extent that they are prohibited from doing so by the company's articles.

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551 Power of directors to allot shares etc: authorisation by company

(1) The directors of a company may exercise a power of the company—

(a) to allot shares in the company, or

(b) to grant rights to subscribe for or to convert any security into shares in the company,

if they are authorised to do so by the company's articles or by resolution of the company.

(2) Authorisation may be given for a particular exercise of the power or for its exercise generally, and may be unconditional or subject to conditions.

(3) Authorisation must—

(a) state the maximum amount of shares that may be allotted under it, and

(b) specify the date on which it will expire, which must be not more than five years from—

(i) in the case of authorisation contained in the company's articles at the time of its original incorporation, the date of that incorporation;

(ii) in any other case, the date on which the resolution is passed by virtue of which the authorisation is given.

(4) Authorisation may—

(a) be renewed or further renewed by resolution of the company for a further period not exceeding five years, and

(b) be revoked or varied at any time by resolution of the company.

(5) A resolution renewing authorisation must—

(a) state (or restate) the maximum amount of shares that may be allotted under the authorisation or, as the case may be, the amount remaining to be allotted under it, and

(b) specify the date on which the renewed authorisation will expire.

(6) In relation to rights to subscribe for or to convert any security into shares in the company, references in this section to the maximum amount of shares that may be allotted under the authorisation are to the maximum amount of shares that may be allotted pursuant to the rights.

(7) The directors may allot shares, or grant rights to subscribe for or to convert any security into shares, after authorisation has expired if—

(a) the shares are allotted, or the rights are granted, in pursuance of an offer or agreement made by the company before the authorisation expired, and

(b) the authorisation allowed the company to make an offer or agreement which would or might require shares to be allotted, or rights to be granted, after the authorisation had expired.

(8) A resolution of a company to give, vary, revoke or renew authorisation under this section may be an ordinary resolution, even though it amends the company's articles.

(9) Chapter 3 of Part 3 (resolutions affecting a company's constitution) applies to a resolution under this section.

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Prohibition of commissions, discounts and allowances

552 General prohibition of commissions, discounts and allowances

(1) Except as permitted by section 553 (permitted commission), a company must not apply any of its shares or capital money, either directly or indirectly, in payment of any commission, discount or allowance to any person in consideration of his—

(a) subscribing or agreeing to subscribe (whether absolutely or conditionally) for shares in the company, or

(b) procuring or agreeing to procure subscriptions (whether absolute or conditional) for shares in the company.

(2) It is immaterial how the shares or money are so applied, whether by being added to the purchase money of property acquired by the company or to the contract price of work to be executed for the company, or being paid out of the nominal purchase money or contract price, or otherwise.

(3) Nothing in this section affects the payment of such brokerage as has previously been lawful.

553 Permitted commission

(1) A company may, if the following conditions are satisfied, pay a commission to a person in consideration of his subscribing or agreeing to subscribe (whether absolutely or conditionally) for shares in the company, or procuring or agreeing to procure subscriptions (whether absolute or conditional) for shares in the company.

(2) The conditions are that—

(a) the payment of the commission is authorised by the company's articles; and

(b) the commission paid or agreed to be paid does not exceed—

(i) 10% of the price at which the shares are issued, or

(ii) the amount or rate authorised by the articles,

whichever is the less.

(3) A vendor to, or promoter of, or other person who receives payment in money or shares from, a company may apply any part of the money or shares so received in payment of any commission the payment of which directly by the company would be permitted by this section.

Registration of allotment

554 Registration of allotment

(1) A company must register an allotment of shares as soon as practicable and in any event within two months after the date of the allotment.

(2) This does not apply if the company has issued a share warrant in respect of the shares (see section 779).

[[F739](2A) If an election is in force under Chapter 2A of Part 8, the obligation under subsection (1) to register the allotment of shares is replaced by an obligation to deliver particulars of the allotment of shares to the registrar in accordance with that Chapter.**]**

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(3) If a company fails to comply with this section, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

(5) For the company's duties as to the issue of share certificates etc, see Part 21 (certification and transfer of securities).

Textual Amendments

F739 S. 554(2A) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 19**; S.I. 2016/321, reg. 6(c)

Return of allotment

555 Return of allotment by limited company

(1) This section applies to a company limited by shares and to a company limited by guarantee and having a share capital.

(2) The company must, within one month of making an allotment of shares, deliver to the registrar for registration a return of the allotment.

(3) The return must—

(a) contain the prescribed information, and

(b) be accompanied by a statement of capital.

(4) The statement of capital must state with respect to the company's share capital at the date to which the return is made up—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

[F740(ba) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and**]**

(c) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class, F741...

F741(d) . . . . . .

Textual Amendments

F740 S. 555(4)(ba) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 5(a)**; S.I. 2016/321, reg. 6(e)

F741 S. 555(4)(d) and word omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 5(b)**; S.I. 2016/321, reg. 6(e)

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Commencement Information

I218 S. 555 wholly in force at 1.10.2009; s. 555 not in force at Royal Assent, see s. 1300; s. 555 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 555 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

556 Return of allotment by unlimited company allotting new class of shares

(1) This section applies to an unlimited company that allots shares of a class with rights that are not in all respects uniform with shares previously allotted.

(2) The company must, within one month of making such an allotment, deliver to the registrar for registration a return of the allotment.

(3) The return must contain the prescribed particulars of the rights attached to the shares.

(4) For the purposes of this section shares are not to be treated as different from shares previously allotted by reason only that the former do not carry the same rights to dividends as the latter during the twelve months immediately following the former's allotment.

Commencement Information

I219 S. 556 wholly in force at 1.10.2009; s. 556 not in force at Royal Assent, see s. 1300; s. 556 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 556 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

557 Offence of failure to make return

(1) If a company makes default in complying with—

section 555 (return of allotment of shares by limited company), or

section 556 (return of allotment of new class of shares by unlimited company),

an offence is committed by every officer of the company who is in default.

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

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

(b) on summary conviction, to a fine not exceeding the statutory maximum and, for continued contravention, a daily default fine not exceeding **[**F742one-tenth of the statutory maximum**][**F742one-tenth of the greater of £5,000 or the amount corresponding to level 4 on the standard scale for summary offences**]**.

(3) In the case of default in delivering to the registrar within one month after the allotment the return required by section 555 or 556—

(a) any person liable for the default may apply to the court for relief, and

(b) the court, if satisfied—

(i) that the omission to deliver the document was accidental or due to inadvertence, or

(ii) that it is just and equitable to grant relief,

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may make an order extending the time for delivery of the document for such period as the court thinks proper.

Textual Amendments

F742 Words in s. 557(2)(b) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(15)** (with reg. 5(1))

Supplementary provisions

558 When shares are allotted

For the purposes of the Companies Acts shares in a company are taken to be allotted when a person acquires the unconditional right to be included in the company's register of members**[**F743(or, as the case may be, to have the person's name and other particulars delivered to the registrar under Chapter 2A of Part 8 and registered by the registrar)**]** in respect of the shares.

Textual Amendments

F743 Words in s. 558 inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 20**; S.I. 2016/321, reg. 6(c)

Modifications etc. (not altering text)

C1031 S. 558 applied (6.4.2007) by The Companies Acts (Unregistered Companies) Regulations 2007 (S.I. 2007/318), reg. 3, **Sch.** (with reg. 6)

Commencement Information

I220 S. 558 wholly in force at 1.10.2009; s. 558 not in force at Royal Assent see s. 1300; s. 558 in force for specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(b)** (with art. 11(1)); s. 558 in force otherwise at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

559 Provisions about allotment not applicable to shares taken on formation

The provisions of this Chapter have no application in relation to the taking of shares by the subscribers to the memorandum on the formation of the company.

CHAPTER 3

ALLOTMENT OF EQUITY SECURITIES: EXISTING SHAREHOLDERS' RIGHT OF PRE-EMPTION

Modifications etc. (not altering text)

C1032 Pt. 17 Ch. 3 excluded (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **176(4)** (with reg. 189)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Introductory

560 Meaning of "equity securities" and related expressions

(1) In this Chapter—

"equity securities" means—

(a) ordinary shares in the company, or

(b) rights to subscribe for, or to convert securities into, ordinary shares in the company;

"ordinary shares" means shares other than shares that as respects dividends and capital carry a right to participate only up to a specified amount in a distribution.

[F744(2) References in this Chapter to the allotment of equity securities—

(a) include the grant of a right to subscribe for, or to convert any securities into, ordinary shares in the company, and

(b) do not include the allotment of shares pursuant to such a right.

(3) References in this Chapter to the allotment of equity securities include the sale of ordinary shares in the company that immediately before the sale were held by the company as treasury shares.**]**

Textual Amendments

F744 S. 560(2)(3) substituted for s. 560(2) (1.10.2009) by The Companies Act 2006 (Allotment of Shares and Right of Pre-emption) (Amendment) Regulations 2009 (S.I. 2009/2561), **reg. 2(2)**

Existing shareholders' right of pre-emption

561 Existing shareholders' right of pre-emption

(1) A company must not allot equity securities to a person on any terms unless—

(a) it has made an offer to each person who holds ordinary shares in the company to allot to him on the same or more favourable terms a proportion of those securities that is as nearly as practicable equal to the proportion in nominal value held by him of the ordinary share capital of the company, and

(b) the period during which any such offer may be accepted has expired or the company has received notice of the acceptance or refusal of every offer so made.

(2) Securities that a company has offered to allot to a holder of ordinary shares may be allotted to him, or anyone in whose favour he has renounced his right to their allotment, without contravening subsection (1)(b).

(3) F745 . . . . . .

(4) Shares held by the company as treasury shares are disregarded for the purposes of this section, so that—

(a) the company is not treated as a person who holds ordinary shares, and

(b) the shares are not treated as forming part of the ordinary share capital of the company.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(5) This section is subject to—

(a) sections 564 to **[**F746566A**]** (exceptions to pre-emption right),

(b) sections 567 and 568 (exclusion of rights of pre-emption),

(c) sections 569 to 573 (disapplication of pre-emption rights), and

(d) section 576 (saving for certain older pre-emption procedures).

Textual Amendments

F745 S. 561(3) omitted (1.10.2009) by virtue of The Companies Act 2006 (Allotment of Shares and Right of Pre-emption) (Amendment) Regulations 2009 (S.I. 2009/2561), **reg. 2(3)**

F746 Word in s. 561(5)(a) substituted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 33(3)(a)** (with ss. 2(2), 5(2))

562 Communication of pre-emption offers to shareholders

(1) This section has effect as to the manner in which offers required by section 561 are to be made to holders of a company's shares.

(2) The offer may be made in hard copy or electronic form.

(3) If the holder—

(a) has no registered address in **[**F747the United Kingdom or an EEA State**]** and has not given to the company an address in **[**F747the United Kingdom or an EEA State**]** for the service of notices on him, or

(b) is the holder of a share warrant,

the offer may be made by causing it, or a notice specifying where a copy of it can be obtained or inspected, to be published in the Gazette.

(4) The offer must state a period during which it may be accepted and the offer shall not be withdrawn before the end of that period.

(5) The period must be a period of at least **[**F74814 days**]** beginning—

(a) in the case of an offer made in hard copy form, with the date on which the offer is sent or supplied;

(b) in the case of an offer made in electronic form, with the date on which the offer is sent;

(c) in the case of an offer made by publication in the Gazette, with the date of publication.

(6) The Secretary of State may by regulations made by statutory instrument—

(a) reduce the period specified in subsection (5) (but not to less than 14 days), or

(b) increase that period.

(7) A statutory instrument containing regulations made under subsection (6) is subject to affirmative resolution procedure.

Textual Amendments

F747 Words in s. 562(3)(a) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 9**; 2020 c. 1, Sch. 5 para. 1(1)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F748 Words in s. 562(5) substituted (1.10.2009) by The Companies (Share Capital and Acquisition by Company of its Own Shares) Regulations 2009 (S.I. 2009/2022), **reg. 2**

Commencement Information

I221 S. 562 wholly in force at 1.10.2009; s. 562 not in force at Royal Assent, see s. 1300; s. 562 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 562 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

563 Liability of company and officers in case of contravention

(1) This section applies where there is a contravention of—

section 561 (existing shareholders' right of pre-emption), or

section 562 (communication of pre-emption offers to shareholders).

(2) The company and every officer of it who knowingly authorised or permitted the contravention are jointly and severally liable to compensate any person to whom an offer should have been made in accordance with those provisions for any loss, damage, costs or expenses which the person has sustained or incurred by reason of the contravention.

(3) No proceedings to recover any such loss, damage, costs or expenses shall be commenced after the expiration of two years—

(a) from the delivery to the registrar of companies of the return of allotment, or

(b) where equity securities other than shares are granted, from the date of the grant.

Exceptions to right of pre-emption

564 Exception to pre-emption right: bonus shares

Section 561(1) (existing shareholders' right of pre-emption) does not apply in relation to the allotment of bonus shares.

565 Exception to pre-emption right: issue for non-cash consideration

Section 561(1) (existing shareholders' right of pre-emption) does not apply to a particular allotment of equity securities if these are, or are to be, wholly or partly paid up otherwise than in cash.

[F749 566 Exceptions to pre-emption right: employees' share schemes

Section 561 (existing shareholders' right of pre-emption) does not apply to the allotment of equity securities that would, apart from any renunciation or assignment of the right to their allotment, be held under or allotted or transferred pursuant to an employees' share scheme.]

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F749 S. 566 substituted (1.10.2009) by The Companies Act 2006 (Allotment of Shares and Right of Pre-emption) (Amendment) Regulations 2009 (S.I. 2009/2561), **reg. 2(4)**

[F750 566A Exception to pre-emption right: companies in financial difficulty

Section 561(1) (existing shareholders' right of pre-emption) does not apply to an allotment of equity securities that is carried out as part of a compromise or arrangement sanctioned in accordance with Part 26A (arrangements and reconstructions: companies in financial difficulty).**]**

Textual Amendments

F750 S. 566A inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 33(3)(b)** (with ss. 2(2), 5(2))

Exclusion of right of pre-emption

567 Exclusion of requirements by private companies

(1) All or any of the requirements of—

(a) section 561 (existing shareholders' right of pre-emption), or

(b) section 562 (communication of pre-emption offers to shareholders)

may be excluded by provision contained in the articles of a private company.

(2) They may be excluded—

(a) generally in relation to the allotment by the company of equity securities, or

(b) in relation to allotments of a particular description.

(3) Any requirement or authorisation contained in the articles of a private company that is inconsistent with either of those sections is treated for the purposes of this section as a provision excluding that section.

(4) A provision to which section 568 applies (exclusion of pre-emption right: corresponding right conferred by articles) is not to be treated as inconsistent with section 561.

568 Exclusion of pre-emption right: articles conferring corresponding right

(1) The provisions of this section apply where, in a case in which section 561 (existing shareholders' right of pre-emption) would otherwise apply—

(a) a company's articles contain provision ("pre-emption provision") prohibiting the company from allotting ordinary shares of a particular class unless it has complied with the condition that it makes such an offer as is described in section 561(1) to each person who holds ordinary shares of that class, and

(b) in accordance with that provision—

(i) the company makes an offer to allot shares to such a holder, and

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(ii) he or anyone in whose favour he has renounced his right to their allotment accepts the offer.

(2) In that case, section 561 does not apply to the allotment of those shares and the company may allot them accordingly.

(3) The provisions of section 562 (communication of pre-emption offers to shareholders) apply in relation to offers made in pursuance of the pre-emption provision of the company's articles.

This is subject to section 567 (exclusion of requirements by private companies).

(4) If there is a contravention of the pre-emption provision of the company's articles, the company, and every officer of it who knowingly authorised or permitted the contravention, are jointly and severally liable to compensate any person to whom an offer should have been made under the provision for any loss, damage, costs or expenses which the person has sustained or incurred by reason of the contravention.

(5) No proceedings to recover any such loss, damage, costs or expenses may be commenced after the expiration of two years—

(a) from the delivery to the registrar of companies of the return of allotment, or

(b) where equity securities other than shares are granted, from the date of the grant.

Disapplication of pre-emption rights

569 Disapplication of pre-emption rights: private company with only one class of shares

(1) The directors of a private company that has only one class of shares may be given power by the articles, or by a special resolution of the company, to allot equity securities of that class as if section 561 (existing shareholders' right of pre-emption)—

(a) did not apply to the allotment, or

(b) applied to the allotment with such modifications as the directors may determine.

(2) Where the directors make an allotment under this section, the provisions of this Chapter have effect accordingly.

570 Disapplication of pre-emption rights: directors acting under general authorisation

(1) Where the directors of a company are generally authorised for the purposes of section 551 (power of directors to allot shares etc: authorisation by company), they may be given power by the articles, or by a special resolution of the company, to allot equity securities pursuant to that authorisation as if section 561 (existing shareholders' right of pre-emption)—

(a) did not apply to the allotment, or

(b) applied to the allotment with such modifications as the directors may determine.

(2) Where the directors make an allotment under this section, the provisions of this Chapter have effect accordingly.

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(3) The power conferred by this section ceases to have effect when the authorisation to which it relates—

(a) is revoked, or

(b) would (if not renewed) expire.

But if the authorisation is renewed the power may also be renewed, for a period not longer than that for which the authorisation is renewed, by a special resolution of the company.

(4) Notwithstanding that the power conferred by this section has expired, the directors may allot equity securities in pursuance of an offer or agreement previously made by the company if the power enabled the company to make an offer or agreement that would or might require equity securities to be allotted after it expired.

571 Disapplication of pre-emption rights by special resolution

(1) Where the directors of a company are authorised for the purposes of section 551 (power of directors to allot shares etc: authorisation by company), whether generally or otherwise, the company may by special resolution resolve that section 561 (existing shareholders' right of pre-emption)—

(a) does not apply to a specified allotment of equity securities to be made pursuant to that authorisation, or

(b) applies to such an allotment with such modifications as may be specified in the resolution.

(2) Where such a resolution is passed the provisions of this Chapter have effect accordingly.

(3) A special resolution under this section ceases to have effect when the authorisation to which it relates—

(a) is revoked, or

(b) would (if not renewed) expire.

But if the authorisation is renewed the resolution may also be renewed, for a period not longer than that for which the authorisation is renewed, by a special resolution of the company.

(4) Notwithstanding that any such resolution has expired, the directors may allot equity securities in pursuance of an offer or agreement previously made by the company if the resolution enabled the company to make an offer or agreement that would or might require equity securities to be allotted after it expired.

(5) A special resolution under this section, or a special resolution to renew such a resolution, must not be proposed unless—

(a) it is recommended by the directors, and

(b) the directors have complied with the following provisions.

(6) Before such a resolution is proposed, the directors must make a written statement setting out—

(a) their reasons for making the recommendation,

(b) the amount to be paid to the company in respect of the equity securities to be allotted, and

(c) the directors' justification of that amount.

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(7) The directors' statement must—

(a) if the resolution is proposed as a written resolution, be sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;

(b) if the resolution is proposed at a general meeting, be circulated to the members entitled to notice of the meeting with that notice.

572 Liability for false statement in directors' statement

(1) This section applies in relation to a directors' statement under section 571 (special resolution disapplying pre-emption rights) that is sent, submitted or circulated under subsection (7) of that section.

(2) A person who knowingly or recklessly authorises or permits the inclusion of any matter that is misleading, false or deceptive in a material particular in such a statement commits an offence.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

573 Disapplication of pre-emption rights: sale of treasury shares

(1) This section applies in relation to a sale of shares that is an allotment of equity securities by virtue of **[**F751section 560(3)**]**(sale of shares held by company as treasury shares).

(2) The directors of a company may be given power by the articles, or by a special resolution of the company, to allot equity securities as if section 561 (existing shareholders' right of pre-emption)—

(a) did not apply to the allotment, or

(b) applied to the allotment with such modifications as the directors may determine.

(3) The provisions of section 570(2) and (4) apply in that case as they apply to a case within subsection (1) of that section.

(4) The company may by special resolution resolve that section 561—

(a) shall not apply to a specified allotment of securities, or

(b) shall apply to the allotment with such modifications as may be specified in the resolution.

(5) The provisions of section 571(2) and (4) to (7) apply in that case as they apply to a case within subsection (1) of that section.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F751 Words in s. 573(1) substituted (1.10.2009) by The Companies Act 2006 (Allotment of Shares and Right of Pre-emption) (Amendment) Regulations 2009 (S.I. 2009/2561), **reg. 2(5)**

Supplementary

574 References to holder of shares in relation to offer

(1) In this Chapter, in relation to an offer to allot securities required by—

(a) section 561 (existing shareholders' right of pre-emption), or

(b) any provision to which section 568 applies (articles conferring corresponding right),

a reference (however expressed) to the holder of shares of any description is to whoever was the holder of shares of that description at the close of business on a date to be specified in the offer.

(2) The specified date must fall within the period of 28 days immediately before the date of the offer.

575 Saving for other restrictions on offer or allotment

(1) The provisions of this Chapter are without prejudice to any other enactment by virtue of which a company is prohibited (whether generally or in specified circumstances) from offering or allotting equity securities to any person.

(2) Where a company cannot by virtue of such an enactment offer or allot equity securities to a holder of ordinary shares of the company, those shares are disregarded for the purposes of section 561 (existing shareholders' right of pre-emption), so that—

(a) the person is not treated as a person who holds ordinary shares, and

(b) the shares are not treated as forming part of the ordinary share capital of the company.

576 Saving for certain older pre-emption requirements

(1) In the case of a public company the provisions of this Chapter do not apply to an allotment of equity securities that are subject to a pre-emption requirement in relation to which section 96(1) of the Companies Act 1985 (c. 6) or Article 106(1) of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)) applied immediately before the commencement of this Chapter.

(2) In the case of a private company a pre-emption requirement to which section 96(3) of the Companies Act 1985 or Article 106(3) of the Companies (Northern Ireland) Order 1986 applied immediately before the commencement of this Chapter shall have effect, so long as the company remains a private company, as if it were contained in the company's articles.

(3) A pre-emption requirement to which section 96(4) of the Companies Act 1985 or Article 106(4) of the Companies (Northern Ireland) Order 1986 applied immediately before the commencement of this section shall be treated for the purposes of this Chapter as if it were contained in the company's articles.

Status: *Point in time view as at 31/12/2020.*
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577 Provisions about pre-emption not applicable to shares taken on formation

The provisions of this Chapter have no application in relation to the taking of shares by the subscribers to the memorandum on the formation of the company.

CHAPTER 4

PUBLIC COMPANIES: ALLOTMENT WHERE ISSUE NOT FULLY SUBSCRIBED

578 Public companies: allotment where issue not fully subscribed

(1) No allotment shall be made of shares of a public company offered for subscription unless—

(a) the issue is subscribed for in full, or

(b) the offer is made on terms that the shares subscribed for may be allotted—

(i) in any event, or

(ii) if specified conditions are met (and those conditions are met).

(2) If shares are prohibited from being allotted by subsection (1) and 40 days have elapsed after the first making of the offer, all money received from applicants for shares must be repaid to them forthwith, without interest.

(3) If any of the money is not repaid within 48 days after the first making of the offer, the directors of the company are jointly and severally liable to repay it, with interest at the rate for the time being specified under section 17 of the Judgments Act 1838 (c. 110) from the expiration of the 48th day.

A director is not so liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

(4) This section applies in the case of shares offered as wholly or partly payable otherwise than in cash as it applies in the case of shares offered for subscription.

(5) In that case—

(a) the references in subsection (1) to subscription shall be construed accordingly;

(b) references in subsections (2) and (3) to the repayment of money received from applicants for shares include—

(i) the return of any other consideration so received (including, if the case so requires, the release of the applicant from any undertaking), or

(ii) if it is not reasonably practicable to return the consideration, the payment of money equal to its value at the time it was so received;

(c) references to interest apply accordingly.

(6) Any condition requiring or binding an applicant for shares to waive compliance with any requirement of this section is void.

579 Public companies: effect of irregular allotment where issue not fully subscribed

(1) An allotment made by a public company to an applicant in contravention of section 578 (public companies: allotment where issue not fully subscribed) is voidable at the instance of the applicant within one month after the date of the allotment, and not later.

(2) It is so voidable even if the company is in the course of being wound up.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(3) A director of a public company who knowingly contravenes, or permits or authorises the contravention of, any provision of section 578 with respect to allotment is liable to compensate the company and the allottee respectively for any loss, damages, costs or expenses that the company or allottee may have sustained or incurred by the contravention.

(4) Proceedings to recover any such loss, damages, costs or expenses may not be brought more than two years after the date of the allotment.

CHAPTER 5

PAYMENT FOR SHARES

Modifications etc. (not altering text)
C1033 Pt. 17 Ch. 5 excluded (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **176(4)** (with reg. 189)

General rules

580 Shares not to be allotted at a discount

(1) A company's shares must not be allotted at a discount.

(2) If shares are allotted in contravention of this section, the allottee is liable to pay the company an amount equal to the amount of the discount, with interest at the appropriate rate.

581 Provision for different amounts to be paid on shares

A company, if so authorised by its articles, may—

(a) make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares;

(b) accept from any member the whole or part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up;

(c) pay a dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

582 General rule as to means of payment

(1) Shares allotted by a company, and any premium on them, may be paid up in money or money's worth (including goodwill and know-how).

(2) This section does not prevent a company—

(a) from allotting bonus shares to its members, or

(b) from paying up, with sums available for the purpose, any amounts for the time being unpaid on any of its shares (whether on account of the nominal value of the shares or by way of premium).

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(3) This section has effect subject to the following provisions of this Chapter (additional rules for public companies).

583 Meaning of payment in cash

(1) The following provisions have effect for the purposes of the Companies Acts.

(2) A share in a company is deemed paid up (as to its nominal value or any premium on it) in cash, or allotted for cash, if the consideration received for the allotment or payment up is a cash consideration.

(3) A "cash consideration" means—

(a) cash received by the company,

(b) a cheque received by the company in good faith that the directors have no reason for suspecting will not be paid,

(c) a release of a liability of the company for a liquidated sum,

(d) an undertaking to pay cash to the company at a future date, or

(e) payment by any other means giving rise to a present or future entitlement (of the company or a person acting on the company's behalf) to a payment, or credit equivalent to payment, in cash.

(4) The Secretary of State may by order provide that particular means of payment specified in the order are to be regarded as falling within subsection (3)(e).

(5) In relation to the allotment or payment up of shares in a company—

(a) the payment of cash to a person other than the company, or

(b) an undertaking to pay cash to a person other than the company,

counts as consideration other than cash.

This does not apply for the purposes of Chapter 3 (allotment of equity securities: existing shareholders' right of pre-emption).

(6) For the purpose of determining whether a share is or is to be allotted for cash, or paid up in cash, "cash" includes foreign currency.

(7) An order under this section is subject to negative resolution procedure.

Commencement Information

I222 S. 583 wholly in force at 1.10.2009; s. 583 not in force at Royal Assent, see s. 1300; s. 583 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 583 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Additional rules for public companies

584 Public companies: shares taken by subscribers of memorandum

Shares taken by a subscriber to the memorandum of a public company in pursuance of an undertaking of his in the memorandum, and any premium on the shares, must be paid up in cash.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C1034 Ss. 584-587 applied (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 9** (with art. 10)

C1035 Ss. 584-587 applied (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 9**

585 Public companies: must not accept undertaking to do work or perform services

(1) A public company must not accept at any time, in payment up of its shares or any premium on them, an undertaking given by any person that he or another should do work or perform services for the company or any other person.

(2) If a public company accepts such an undertaking in payment up of its shares or any premium on them, the holder of the shares when they or the premium are treated as paid up (in whole or in part) by the undertaking is liable—

(a) to pay the company in respect of those shares an amount equal to their nominal value, together with the whole of any premium or, if the case so requires, such proportion of that amount as is treated as paid up by the undertaking; and

(b) to pay interest at the appropriate rate on the amount payable under paragraph (a).

(3) The reference in subsection (2) to the holder of shares includes a person who has an unconditional right—

(a) to be included in the company's register of members in respect of those shares, or

(b) to have an instrument of transfer of them executed in his favour.

Modifications etc. (not altering text)

C1036 Ss. 584-587 applied (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 9** (with art. 10)

C1037 Ss. 584-587 applied (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 9**

586 Public companies: shares must be at least one-quarter paid up

(1) A public company must not allot a share except as paid up at least as to one-quarter of its nominal value and the whole of any premium on it.

(2) This does not apply to shares allotted in pursuance of an employees' share scheme.

(3) If a company allots a share in contravention of this section—

(a) the share is to be treated as if one-quarter of its nominal value, together with the whole of any premium on it, had been received, and

(b) the allottee is liable to pay the company the minimum amount which should have been received in respect of the share under subsection (1) (less the value of any consideration actually applied in payment up, to any extent, of the share and any premium on it), with interest at the appropriate rate.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Subsection (3) does not apply to the allotment of bonus shares, unless the allottee knew or ought to have known the shares were allotted in contravention of this section.

Modifications etc. (not altering text)

C1038 Ss. 584-587 applied (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 9** (with art. 10)

C1039 Ss. 584-587 applied (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 9**

587 Public companies: payment by long-term undertaking

(1) A public company must not allot shares as fully or partly paid up (as to their nominal value or any premium on them) otherwise than in cash if the consideration for the allotment is or includes an undertaking which is to be, or may be, performed more than five years after the date of the allotment.

(2) If a company allots shares in contravention of subsection (1), the allottee is liable to pay the company an amount equal to the aggregate of their nominal value and the whole of any premium (or, if the case so requires, so much of that aggregate as is treated as paid up by the undertaking), with interest at the appropriate rate.

(3) Where a contract for the allotment of shares does not contravene subsection (1), any variation of the contract that has the effect that the contract would have contravened the subsection, if the terms of the contract as varied had been its original terms, is void.

This applies also to the variation by a public company of the terms of a contract entered into before the company was re-registered as a public company.

(4) Where—

(a) a public company allots shares for a consideration which consists of or includes (in accordance with subsection (1)) an undertaking that is to be performed within five years of the allotment, and

(b) the undertaking is not performed within the period allowed by the contract for the allotment of the shares,

the allottee is liable to pay the company, at the end of the period so allowed, an amount equal to the aggregate of the nominal value of the shares and the whole of any premium (or, if the case so requires, so much of that aggregate as is treated as paid up by the undertaking), with interest at the appropriate rate.

(5) References in this section to a contract for the allotment of shares include an ancillary contract relating to payment in respect of them.

Modifications etc. (not altering text)

C1040 Ss. 584-587 applied (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 9** (with art. 10)

C1041 Ss. 584-587 applied (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 9**

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Supplementary provisions

588 Liability of subsequent holders of shares

(1) If a person becomes a holder of shares in respect of which—

(a) there has been a contravention of any provision of this Chapter, and

(b) by virtue of that contravention another is liable to pay any amount under the provision contravened,

that person is also liable to pay that amount (jointly and severally with any other person so liable), subject as follows.

(2) A person otherwise liable under subsection (1) is exempted from that liability if either—

(a) he is a purchaser for value and, at the time of the purchase, he did not have actual notice of the contravention concerned, or

(b) he derived title to the shares (directly or indirectly) from a person who became a holder of them after the contravention and was not liable under subsection (1).

(3) References in this section to a holder, in relation to shares in a company, include any person who has an unconditional right—

(a) to be included in the company's register of members**[**F752(or, as the case may be, to have his name and other particulars delivered to the registrar under Chapter 2A of Part 8 and registered by the registrar)**]** in respect of those shares, or

(b) to have an instrument of transfer of the shares executed in his favour.

(4) This section applies in relation to a failure to carry out a term of a contract as mentioned in section 587(4) (public companies: payment by long-term undertaking) as it applies in relation to a contravention of a provision of this Chapter.

Textual Amendments

F752 Words in s. 588(3)(a) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 21**; S.I. 2016/321, reg. 6(c)

589 Power of court to grant relief

(1) This section applies in relation to liability under—

section 585(2) (liability of allottee in case of breach by public company of prohibition on accepting undertaking to do work or perform services),

section 587(2) or (4) (liability of allottee in case of breach by public company of prohibition on payment by long-term undertaking), or

section 588 (liability of subsequent holders of shares),

as it applies in relation to a contravention of those sections.

(2) A person who—

(a) is subject to any such liability to a company in relation to payment in respect of shares in the company, or

(b) is subject to any such liability to a company by virtue of an undertaking given to it in, or in connection with, payment for shares in the company,

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may apply to the court to be exempted in whole or in part from the liability.

(3) In the case of a liability within subsection (2)(a), the court may exempt the applicant from the liability only if and to the extent that it appears to the court just and equitable to do so having regard to—

(a) whether the applicant has paid, or is liable to pay, any amount in respect of—

(i) any other liability arising in relation to those shares under any provision of this Chapter or Chapter 6, or

(ii) any liability arising by virtue of any undertaking given in or in connection with payment for those shares;

(b) whether any person other than the applicant has paid or is likely to pay, whether in pursuance of any order of the court or otherwise, any such amount;

(c) whether the applicant or any other person—

(i) has performed in whole or in part, or is likely so to perform any such undertaking, or

(ii) has done or is likely to do any other thing in payment or part payment for the shares.

(4) In the case of a liability within subsection (2)(b), the court may exempt the applicant from the liability only if and to the extent that it appears to the court just and equitable to do so having regard to—

(a) whether the applicant has paid or is liable to pay any amount in respect of liability arising in relation to the shares under any provision of this Chapter or Chapter 6;

(b) whether any person other than the applicant has paid or is likely to pay, whether in pursuance of any order of the court or otherwise, any such amount.

(5) In determining whether it should exempt the applicant in whole or in part from any liability, the court must have regard to the following overriding principles—

(a) a company that has allotted shares should receive money or money's worth at least equal in value to the aggregate of the nominal value of those shares and the whole of any premium or, if the case so requires, so much of that aggregate as is treated as paid up;

(b) subject to that, where a company would, if the court did not grant the exemption, have more than one remedy against a particular person, it should be for the company to decide which remedy it should remain entitled to pursue.

(6) If a person brings proceedings against another ("the contributor") for a contribution in respect of liability to a company arising under any provision of this Chapter or Chapter 6 and it appears to the court that the contributor is liable to make such a contribution, the court may, if and to the extent that it appears to it just and equitable to do so having regard to the respective culpability (in respect of the liability to the company) of the contributor and the person bringing the proceedings—

(a) exempt the contributor in whole or in part from his liability to make such a contribution, or

(b) order the contributor to make a larger contribution than, but for this subsection, he would be liable to make.

590 Penalty for contravention of this Chapter

(1) If a company contravenes any of the provisions of this Chapter, an offence is committed by—

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(a) the company, and
(b) every officer of the company who is in default.

(2) A person guilty of an offence under this section is liable—
(a) on conviction on indictment, to a fine;
(b) on summary conviction, to a fine not exceeding the statutory maximum.

591 Enforceability of undertakings to do work etc

(1) An undertaking given by any person, in or in connection with payment for shares in a company, to do work or perform services or to do any other thing, if it is enforceable by the company apart from this Chapter, is so enforceable notwithstanding that there has been a contravention in relation to it of a provision of this Chapter or Chapter 6.

(2) This is without prejudice to section 589 (power of court to grant relief etc in respect of liabilities).

592 The appropriate rate of interest

(1) For the purposes of this Chapter the "appropriate rate" of interest is 5% per annum or such other rate as may be specified by order made by the Secretary of State.

(2) An order under this section is subject to negative resolution procedure.

Commencement Information

I223 S. 592 wholly in force at 1.10.2009; s. 592 not in force at Royal Assent, see s. 1300; s. 592 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 592 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

CHAPTER 6

PUBLIC COMPANIES: INDEPENDENT VALUATION OF NON-CASH CONSIDERATION

Non-cash consideration for shares

593 Public company: valuation of non-cash consideration for shares

(1) A public company must not allot shares as fully or partly paid up (as to their nominal value or any premium on them) otherwise than in cash unless—
(a) the consideration for the allotment has been independently valued in accordance with the provisions of this Chapter,
(b) the valuer's report has been made to the company during the six months immediately preceding the allotment of the shares, and
(c) a copy of the report has been sent to the proposed allottee.

(2) For this purpose the application of an amount standing to the credit of—
(a) any of a company's reserve accounts, or
(b) its profit and loss account,

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in paying up (to any extent) shares allotted to members of the company, or premiums on shares so allotted, does not count as consideration for the allotment.

Accordingly, subsection (1) does not apply in that case.

(3) If a company allots shares in contravention of subsection (1) and either—

(a) the allottee has not received the valuer's report required to be sent to him, or

(b) there has been some other contravention of the requirements of this section or section 596 that the allottee knew or ought to have known amounted to a contravention,

the allottee is liable to pay the company an amount equal to the aggregate of the nominal value of the shares and the whole of any premium (or, if the case so requires, so much of that aggregate as is treated as paid up by the consideration), with interest at the appropriate rate.

(4) This section has effect subject to—

section 594 (exception to valuation requirement: arrangement with another company), and

section 595 (exception to valuation requirement: merger **[**[F753]or division**]**).

Textual Amendments

F753 Words in s. 593(4) inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 2(4)**

594 Exception to valuation requirement: arrangement with another company

(1) Section 593 (valuation of non-cash consideration) does not apply to the allotment of shares by a company ("company A") in connection with an arrangement to which this section applies.

(2) This section applies to an arrangement for the allotment of shares in company A on terms that the whole or part of the consideration for the shares allotted is to be provided by—

(a) the transfer to that company, or

(b) the cancellation,

of all or some of the shares, or of all or some of the shares of a particular class, in another company ("company B").

(3) It is immaterial whether the arrangement provides for the issue to company A of shares, or shares of any particular class, in company B.

(4) This section applies to an arrangement only if under the arrangement it is open to all the holders of the shares in company B (or, where the arrangement applies only to shares of a particular class, to all the holders of shares of that class) to take part in the arrangement.

(5) In determining whether that is the case, the following shall be disregarded—

(a) shares held by or by a nominee of company A;

(b) shares held by or by a nominee of a company which is—

(i) the holding company, or a subsidiary, of company A, or

(ii) a subsidiary of such a holding company;

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(c) shares held as treasury shares by company B.

(6) In this section—

(a) "arrangement" means any agreement, scheme or arrangement (including an arrangement sanctioned in accordance with—

(i) Part 26 **[**[F754]or 26A**]** (arrangements and reconstructions), or

(ii) section 110 of the Insolvency Act 1986 (c. 45) or Article 96 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) (liquidator in winding up accepting shares as consideration for sale of company property)), and

(b) "company", except in reference to company A, includes any body corporate.

Textual Amendments

F754 Words in s. 594(6)(a)(i) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 33(4)** (with ss. 2(2), 5(2))

595 Exception to valuation requirement: merger [F755or division]

(1) Section 593 (valuation of non-cash consideration) does not apply to the allotment of shares by a company **[**[F756] as part of a scheme to which Part 27 (mergers and divisions of public companies) applies if—

(a) in the case of a scheme involving a merger, an expert's report is drawn up as required by section 909, or

(b) in the case of a scheme involving a division, an expert's report is drawn up as required by section 924.**]**

(2) [F757] . . . . . .

(3) [F757] . . . . . .

Textual Amendments

F755 S. 595: words in heading inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 2(4)**

F756 Words in s. 595(1) substituted (1.8.2011 with application in accordance with reg. 1(2)) by virtue of The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 2(2)**

F757 S. 595(2)(3) omitted (1.8.2011 with application in accordance with reg. 1(2)) by virtue of The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 2(3)**

596 Non-cash consideration for shares: requirements as to valuation and report

(1) The provisions of sections 1150 to 1153 (general provisions as to independent valuation and report) apply to the valuation and report required by section 593 (public company: valuation of non-cash consideration for shares).

(2) The valuer's report must state—

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(a) the nominal value of the shares to be wholly or partly paid for by the consideration in question;

(b) the amount of any premium payable on the shares;

(c) the description of the consideration and, as respects so much of the consideration as he himself has valued, a description of that part of the consideration, the method used to value it and the date of the valuation;

(d) the extent to which the nominal value of the shares and any premium are to be treated as paid up—

(i) by the consideration;

(ii) in cash.

(3) The valuer's report must contain or be accompanied by a note by him—

(a) in the case of a valuation made by a person other than himself, that it appeared to himself reasonable to arrange for it to be so made or to accept a valuation so made,

(b) whoever made the valuation, that the method of valuation was reasonable in all the circumstances,

(c) that it appears to the valuer that there has been no material change in the value of the consideration in question since the valuation, and

(d) that, on the basis of the valuation, the value of the consideration, together with any cash by which the nominal value of the shares or any premium payable on them is to be paid up, is not less than so much of the aggregate of the nominal value and the whole of any such premium as is treated as paid up by the consideration and any such cash.

(4) Where the consideration to be valued is accepted partly in payment up of the nominal value of the shares and any premium and partly for some other consideration given by the company, section 593 and the preceding provisions of this section apply as if references to the consideration accepted by the company included the proportion of that consideration that is properly attributable to the payment up of that value and any premium.

(5) In such a case—

(a) the valuer must carry out, or arrange for, such other valuations as will enable him to determine that proportion, and

(b) his report must state what valuations have been made under this subsection and also the reason for, and method and date of, any such valuation and any other matters which may be relevant to that determination.

597 Copy of report to be delivered to registrar

(1) A company to which a report is made under section 593 as to the value of any consideration for which, or partly for which, it proposes to allot shares must deliver a copy of the report to the registrar for registration.

(2) The copy must be delivered at the same time that the company files the return of the allotment of those shares under section 555 (return of allotment by limited company).

(3) If default is made in complying with subsection (1) or (2), an offence is committed by every officer of the company who is in default.

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

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

(b) on summary conviction, to a fine not exceeding the statutory maximum and, for continued contravention, a daily default fine not exceeding **[**F758one-tenth of the statutory maximum**][**F758one-tenth of the greater of £5,000 or the amount corresponding to level 4 on the standard scale for summary offences**]**.

(5) In the case of default in delivering to the registrar any document as required by this section, any person liable for the default may apply to the court for relief.

(6) The court, if satisfied—

(a) that the omission to deliver the document was accidental or due to inadvertence, or

(b) that it is just and equitable to grant relief,

may make an order extending the time for delivery of the document for such period as the court thinks proper.

Textual Amendments

F758 Words in s. 597(4)(b) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(16)** (with reg. 5(1))

Transfer of non-cash asset in initial period

598 Public company: agreement for transfer of non-cash asset in initial period

(1) A public company formed as such must not enter into an agreement—

(a) with a person who is a subscriber to the company's memorandum,

(b) for the transfer by him to the company, or another, before the end of the company's initial period of one or more non-cash assets, and

(c) under which the consideration for the transfer to be given by the company is at the time of the agreement equal in value to one-tenth or more of the company's issued share capital,

unless the conditions referred to below have been complied with.

(2) The company's "initial period" means the period of two years beginning with the date of the company being issued with a certificate under section 761 (trading certificate).

(3) The conditions are those specified in—

section 599 (requirement of independent valuation), and

section 601 (requirement of approval by members).

(4) This section does not apply where—

(a) it is part of the company's ordinary business to acquire, or arrange for other persons to acquire, assets of a particular description, and

(b) the agreement is entered into by the company in the ordinary course of that business.

(5) This section does not apply to an agreement entered into by the company under the supervision of the court or of an officer authorised by the court for the purpose.

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599 Agreement for transfer of non-cash asset: requirement of independent valuation

(1) The following conditions must have been complied with—

(a) the consideration to be received by the company, and any consideration other than cash to be given by the company, must have been independently valued in accordance with the provisions of this Chapter,

(b) the valuer's report must have been made to the company during the six months immediately preceding the date of the agreement, and

(c) a copy of the report must have been sent to the other party to the proposed agreement not later than the date on which copies have to be circulated to members under section 601(3).

(2) The reference in subsection (1)(a) to the consideration to be received by the company is to the asset to be transferred to it or, as the case may be, to the advantage to the company of the asset's transfer to another person.

(3) The reference in subsection (1)(c) to the other party to the proposed agreement is to the person referred to in section 598(1)(a).

If he has received a copy of the report under section 601 in his capacity as a member of the company, it is not necessary to send another copy under this section.

(4) This section does not affect any requirement to value any consideration for purposes of section 593 (valuation of non-cash consideration for shares).

600 Agreement for transfer of non-cash asset: requirements as to valuation and report

(1) The provisions of sections 1150 to 1153 (general provisions as to independent valuation and report) apply to the valuation and report required by section 599 (public company: transfer of non-cash asset).

(2) The valuer's report must state—

(a) the consideration to be received by the company, describing the asset in question (specifying the amount to be received in cash) and the consideration to be given by the company (specifying the amount to be given in cash), and

(b) the method and date of valuation.

(3) The valuer's report must contain or be accompanied by a note by him—

(a) in the case of a valuation made by a person other than himself, that it appeared to himself reasonable to arrange for it to be so made or to accept a valuation so made,

(b) whoever made the valuation, that the method of valuation was reasonable in all the circumstances,

(c) that it appears to the valuer that there has been no material change in the value of the consideration in question since the valuation, and

(d) that, on the basis of the valuation, the value of the consideration to be received by the company is not less than the value of the consideration to be given by it.

(4) Any reference in section 599 or this section to consideration given for the transfer of an asset includes consideration given partly for its transfer.

(5) In such a case—

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(a) the value of any consideration partly so given is to be taken as the proportion of the consideration properly attributable to its transfer,

(b) the valuer must carry out or arrange for such valuations of anything else as will enable him to determine that proportion, and

(c) his report must state what valuations have been made for that purpose and also the reason for and method and date of any such valuation and any other matters which may be relevant to that determination.

601 Agreement for transfer of non-cash asset: requirement of approval by members

(1) The following conditions must have been complied with—

(a) the terms of the agreement must have been approved by an ordinary resolution of the company,

[F759(b) copies of the valuer's report must have been circulated to the members entitled to notice of the meeting at which the resolution is proposed, not later than the date on which notice of the meeting is given, and**]**

(c) a copy of the proposed resolution must have been sent to the other party to the proposed agreement.

(2) The reference in subsection (1)(c) to the other party to the proposed agreement is to the person referred to in section 598(1)(a).

(3) F760 . . . . . .

Textual Amendments

F759 S. 601(1)(b) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 260(3)(a)** (with art. 10)

F760 S. 601(3) omitted (1.10.2009) by virtue of The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 260(3)(b)** (with art. 10)

602 Copy of resolution to be delivered to registrar

(1) A company that has passed a resolution under section 601 with respect to the transfer of an asset must, within 15 days of doing so, deliver to the registrar a copy of the resolution together with the valuer's report required by that section.

(2) If a company fails to comply with subsection (1), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

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603 Adaptation of provisions in relation to company re-registering as public

The provisions of sections 598 to 602 (public companies: transfer of non-cash assets) apply with the following adaptations in relation to a company re-registered as a public company—

(a) the reference in section 598(1)(a) to a person who is a subscriber to the company's memorandum shall be read as a reference to a person who is a member of the company on the date of re-registration;

(b) the reference in section 598(2) to the date of the company being issued with a certificate under section 761 (trading certificate) shall be read as a reference to the date of re-registration.

604 Agreement for transfer of non-cash asset: effect of contravention

(1) This section applies where a public company enters into an agreement in contravention of section 598 and either—

(a) the other party to the agreement has not received the valuer's report required to be sent to him, or

(b) there has been some other contravention of the requirements of this Chapter that the other party to the agreement knew or ought to have known amounted to a contravention.

(2) In those circumstances—

(a) the company is entitled to recover from that person any consideration given by it under the agreement, or an amount equal to the value of the consideration at the time of the agreement, and

(b) the agreement, so far as not carried out, is void.

(3) If the agreement is or includes an agreement for the allotment of shares in the company, then—

(a) whether or not the agreement also contravenes section 593 (valuation of non-cash consideration for shares), this section does not apply to it in so far as it is for the allotment of shares, and

(b) the allottee is liable to pay the company an amount equal to the aggregate of the nominal value of the shares and the whole of any premium (or, if the case so requires, so much of that aggregate as is treated as paid up by the consideration), with interest at the appropriate rate.

Supplementary provisions

605 Liability of subsequent holders of shares

(1) If a person becomes a holder of shares in respect of which—

(a) there has been a contravention of section 593 (public company: valuation of non-cash consideration for shares), and

(b) by virtue of that contravention another is liable to pay any amount under the provision contravened,

that person is also liable to pay that amount (jointly and severally with any other person so liable), unless he is exempted from liability under subsection (3) below.

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(2) If a company enters into an agreement in contravention of section 598 (public company: agreement for transfer of non-cash asset in initial period) and—

(a) the agreement is or includes an agreement for the allotment of shares in the company,

(b) a person becomes a holder of shares allotted under the agreement, and

(c) by virtue of the agreement and allotment under it another person is liable to pay an amount under section 604,

the person who becomes the holder of the shares is also liable to pay that amount (jointly and severally with any other person so liable), unless he is exempted from liability under subsection (3) below.

This applies whether or not the agreement also contravenes section 593.

(3) A person otherwise liable under subsection (1) or (2) is exempted from that liability if either—

(a) he is a purchaser for value and, at the time of the purchase, he did not have actual notice of the contravention concerned, or

(b) he derived title to the shares (directly or indirectly) from a person who became a holder of them after the contravention and was not liable under subsection (1) or (2).

(4) References in this section to a holder, in relation to shares in a company, include any person who has an unconditional right—

(a) to be included in the company's register of members**[**F761(or, as the case may be, to have his name and other particulars delivered to the registrar under Chapter 2A of Part 8 and registered by the registrar)**]** in respect of those shares, or

(b) to have an instrument of transfer of the shares executed in his favour.

Textual Amendments

F761 Words in s. 605(4)(a) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 22**; S.I. 2016/321, reg. 6(c)

606 Power of court to grant relief

(1) A person who—

(a) is liable to a company under any provision of this Chapter in relation to payment in respect of any shares in the company, or

(b) is liable to a company by virtue of an undertaking given to it in, or in connection with, payment for any shares in the company,

may apply to the court to be exempted in whole or in part from the liability.

(2) In the case of a liability within subsection (1)(a), the court may exempt the applicant from the liability only if and to the extent that it appears to the court just and equitable to do so having regard to—

(a) whether the applicant has paid, or is liable to pay, any amount in respect of—

(i) any other liability arising in relation to those shares under any provision of this Chapter or Chapter 5, or

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(ii) any liability arising by virtue of any undertaking given in or in connection with payment for those shares;

(b) whether any person other than the applicant has paid or is likely to pay, whether in pursuance of any order of the court or otherwise, any such amount;

(c) whether the applicant or any other person—

(i) has performed in whole or in part, or is likely so to perform any such undertaking, or

(ii) has done or is likely to do any other thing in payment or part payment for the shares.

(3) In the case of a liability within subsection (1)(b), the court may exempt the applicant from the liability only if and to the extent that it appears to the court just and equitable to do so having regard to—

(a) whether the applicant has paid or is liable to pay any amount in respect of liability arising in relation to the shares under any provision of this Chapter or Chapter 5;

(b) whether any person other than the applicant has paid or is likely to pay, whether in pursuance of any order of the court or otherwise, any such amount.

(4) In determining whether it should exempt the applicant in whole or in part from any liability, the court must have regard to the following overriding principles—

(a) that a company that has allotted shares should receive money or money's worth at least equal in value to the aggregate of the nominal value of those shares and the whole of any premium or, if the case so requires, so much of that aggregate as is treated as paid up;

(b) subject to this, that where such a company would, if the court did not grant the exemption, have more than one remedy against a particular person, it should be for the company to decide which remedy it should remain entitled to pursue.

(5) If a person brings proceedings against another ("the contributor") for a contribution in respect of liability to a company arising under any provision of this Chapter or Chapter 5 and it appears to the court that the contributor is liable to make such a contribution, the court may, if and to the extent that it appears to it, just and equitable to do so having regard to the respective culpability (in respect of the liability to the company) of the contributor and the person bringing the proceedings—

(a) exempt the contributor in whole or in part from his liability to make such a contribution, or

(b) order the contributor to make a larger contribution than, but for this subsection, he would be liable to make.

(6) Where a person is liable to a company under section 604(2) (agreement for transfer of non-cash asset: effect of contravention), the court may, on application, exempt him in whole or in part from that liability if and to the extent that it appears to the court to be just and equitable to do so having regard to any benefit accruing to the company by virtue of anything done by him towards the carrying out of the agreement mentioned in that subsection.

607 Penalty for contravention of this Chapter

(1) This section applies where a company contravenes—

section 593 (public company allotting shares for non-cash consideration), or

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section 598 (public company entering into agreement for transfer of non-cash asset).

(2) An offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

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

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

608 Enforceability of undertakings to do work etc

(1) An undertaking given by any person, in or in connection with payment for shares in a company, to do work or perform services or to do any other thing, if it is enforceable by the company apart from this Chapter, is so enforceable notwithstanding that there has been a contravention in relation to it of a provision of this Chapter or Chapter 5.

(2) This is without prejudice to section 606 (power of court to grant relief etc in respect of liabilities).

609 The appropriate rate of interest

(1) For the purposes of this Chapter the "appropriate rate" of interest is 5% per annum or such other rate as may be specified by order made by the Secretary of State.

(2) An order under this section is subject to negative resolution procedure.

Commencement Information

I224 S. 609 wholly in force at 1.10.2009; s. 609 not in force at Royal Assent, see s. 1300; s. 609 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 609 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

CHAPTER 7

SHARE PREMIUMS

The share premium account

610 Application of share premiums

(1) If a company issues shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount or value of the premiums on those shares must be transferred to an account called "the share premium account".

(2) Where, on issuing shares, a company has transferred a sum to the share premium account, it may use that sum to write off—

(a) the expenses of the issue of those shares;

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(b) any commission paid on the issue of those shares.

(3) The company may use the share premium account to pay up new shares to be allotted to members as fully paid bonus shares.

(4) Subject to subsections (2) and (3), the provisions of the Companies Acts relating to the reduction of a company's share capital apply as if the share premium account were part of its paid up share capital.

(5) This section has effect subject to—

section 611 (group reconstruction relief);

section 612 (merger relief);

section 614 (power to make further provisions by regulations).

(6) In this Chapter "the issuing company" means the company issuing shares as mentioned in subsection (1) above.

Commencement Information

I225 S. 610 wholly in force at 1.10.2009; s. 610 not in force at Royal Assent see s. 1300; s. 610(2)-(4) in force for specified purposes at 1.10.2008 by S.I. 2008/1886, **art. 2** (with arts 6, 7); s. 610 in force at 1.10.2009 in so far as not already in force by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Relief from requirements as to share premiums

611 Group reconstruction relief

(1) This section applies where the issuing company—

(a) is a wholly-owned subsidiary of another company ("the holding company"), and

(b) allots shares—

(i) to the holding company, or

(ii) to another wholly-owned subsidiary of the holding company,

in consideration for the transfer to the issuing company of non-cash assets of a company ("the transferor company") that is a member of the group of companies that comprises the holding company and all its wholly-owned subsidiaries.

(2) Where the shares in the issuing company allotted in consideration for the transfer are issued at a premium, the issuing company is not required by section 610 to transfer any amount in excess of the minimum premium value to the share premium account.

(3) The minimum premium value means the amount (if any) by which the base value of the consideration for the shares allotted exceeds the aggregate nominal value of the shares.

(4) The base value of the consideration for the shares allotted is the amount by which the base value of the assets transferred exceeds the base value of any liabilities of the transferor company assumed by the issuing company as part of the consideration for the assets transferred.

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(5) For the purposes of this section—

(a) the base value of assets transferred is taken as—

(i) the cost of those assets to the transferor company, or

(ii) if less, the amount at which those assets are stated in the transferor company's accounting records immediately before the transfer;

(b) the base value of the liabilities assumed is taken as the amount at which they are stated in the transferor company's accounting records immediately before the transfer.

612 Merger relief

(1) This section applies where the issuing company has secured at least a 90% equity holding in another company in pursuance of an arrangement providing for the allotment of equity shares in the issuing company on terms that the consideration for the shares allotted is to be provided—

(a) by the issue or transfer to the issuing company of equity shares in the other company, or

(b) by the cancellation of any such shares not held by the issuing company.

(2) If the equity shares in the issuing company allotted in pursuance of the arrangement in consideration for the acquisition or cancellation of equity shares in the other company are issued at a premium, section 610 does not apply to the premiums on those shares.

(3) Where the arrangement also provides for the allotment of any shares in the issuing company on terms that the consideration for those shares is to be provided—

(a) by the issue or transfer to the issuing company of non-equity shares in the other company, or

(b) by the cancellation of any such shares in that company not held by the issuing company,

relief under subsection (2) extends to any shares in the issuing company allotted on those terms in pursuance of the arrangement.

(4) This section does not apply in a case falling within section 611 (group reconstruction relief).

613 Merger relief: meaning of 90% equity holding

(1) The following provisions have effect to determine for the purposes of section 612 (merger relief) whether a company ("company A") has secured at least a 90% equity holding in another company ("company B") in pursuance of such an arrangement as is mentioned in subsection (1) of that section.

(2) Company A has secured at least a 90% equity holding in company B if in consequence of an acquisition or cancellation of equity shares in company B (in pursuance of that arrangement) it holds equity shares in company B of an aggregate amount equal to 90% or more of the nominal value of that company's equity share capital.

(3) For this purpose—

(a) it is immaterial whether any of those shares were acquired in pursuance of the arrangement; and

(b) shares in company B held by the company as treasury shares are excluded in determining the nominal value of company B's share capital.

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(4) Where the equity share capital of company B is divided into different classes of shares, company A is not regarded as having secured at least a 90% equity holding in company B unless the requirements of subsection (2) are met in relation to each of those classes of shares taken separately.

(5) For the purposes of this section shares held by—

(a) a company that is company A's holding company or subsidiary, or

(b) a subsidiary of company A's holding company, or

(c) its or their nominees,

are treated as held by company A.

614 Power to make further provision by regulations

(1) The Secretary of State may by regulations make such provision as he thinks appropriate—

(a) for relieving companies from the requirements of section 610 (application of share premiums) in relation to premiums other than cash premiums;

(b) for restricting or otherwise modifying any relief from those requirements provided by this Chapter.

(2) Regulations under this section are subject to affirmative resolution procedure.

Commencement Information

I226 S. 614 wholly in force at 1.10.2009; s. 614 not in force at Royal Assent, see s. 1300; s. 614 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 614 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

615 Relief may be reflected in company's balance sheet

An amount corresponding to the amount representing the premiums, or part of the premiums, on shares issued by a company that by virtue of any relief under this Chapter is not included in the company's share premium account may also be disregarded in determining the amount at which any shares or other consideration provided for the shares issued is to be included in the company's balance sheet.

Supplementary provisions

616 Interpretation of this Chapter

(1) In this Chapter—

"arrangement" means any agreement, scheme or arrangement (including an arrangement sanctioned in accordance with—

(a) Part 26 **[**F762or 26A**]** (arrangements and reconstructions), or

(b) section 110 of the Insolvency Act 1986 (c. 45) or Article 96 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) (liquidator in winding up accepting shares as consideration for sale of company property));

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"company", except in reference to the issuing company, includes any body corporate;

"equity shares" means shares comprised in a company's equity share capital, and "non-equity shares" means shares (of any class) that are not so comprised;

"the issuing company" has the meaning given by section 610(6).

(2) References in this Chapter (however expressed) to—

(a) the acquisition by a company of shares in another company, and

(b) the issue or allotment of shares to, or the transfer of shares to or by, a company,

include (respectively) the acquisition of shares by, and the issue or allotment or transfer of shares to or by, a nominee of that company.

The reference in section 611 to the transferor company shall be read accordingly.

(3) References in this Chapter to the transfer of shares in a company include the transfer of a right to be included in the company's register of members**[**F763(or, as the case may be, have your name and other particulars delivered to the registrar under Chapter 2A of Part 8 and registered by the registrar)**]** in respect of those shares.

Textual Amendments

F762 Words in s. 616(1) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 33(5)** (with ss. 2(2), 5(2))

F763 Words in s. 616(3) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 23**; S.I. 2016/321, reg. 6(c)

CHAPTER 8

ALTERATION OF SHARE CAPITAL

How share capital may be altered

617 Alteration of share capital of limited company

(1) A limited company having a share capital may not alter its share capital except in the following ways.

(2) The company may—

(a) increase its share capital by allotting new shares in accordance with this Part, or

(b) reduce its share capital in accordance with Chapter 10.

(3) The company may—

(a) sub-divide or consolidate all or any of its share capital in accordance with section 618, or

(b) reconvert stock into shares in accordance with section 620.

(4) The company may redenominate all or any of its shares in accordance with section 622, and may reduce its share capital in accordance with section 626 in connection with such a redenomination.

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(5) Nothing in this section affects—

(a) the power of a company to purchase its own shares, or to redeem shares, in accordance with Part 18;

(b) the power of a company to purchase its own shares in pursuance of an order of the court under—

(i) section 98 (application to court to cancel resolution for re-registration as a private company),

(ii) section 721(6) (powers of court on objection to redemption or purchase of shares out of capital),

(iii) section 759 (remedial order in case of breach of prohibition of public offers by private company), or

(iv) Part 30 (protection of members against unfair prejudice);

(c) the forfeiture of shares, or the acceptance of shares surrendered in lieu, in pursuance of the company's articles, for failure to pay any sum payable in respect of the shares;

(d) the cancellation of shares under section 662 (duty to cancel shares held by or for a public company);

(e) the power of a company—

(i) to enter into a compromise or arrangement in accordance with Part 26 **[**[F764]or 26A**]** (arrangements and reconstructions), or

(ii) to do anything required to comply with an order of the court on an application under that Part.

[[F765](f) the cancellation of a share warrant issued by the company and of the shares specified in it by a cancellation order or suspended cancellation order made under paragraph 6 of Schedule 4 to the Small Business, Enterprise and Employment Act 2015 (cancellation where share warrants not surrendered in accordance with that Schedule);

(g) the cancellation of a share warrant issued by the company and of the shares specified in it pursuant to section 1028A(2) or 1032A(2) (cancellation of share warrants on restoration of a company).**]**

Textual Amendments

F764 Words in s. 617(5)(e)(i) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 33(6)** (with ss. 2(2), 5(2))

F765 S. 617(5)(f)(g) inserted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 24**

Subdivision or consolidation of shares

618 Sub-division or consolidation of shares

(1) A limited company having a share capital may—

(a) sub-divide its shares, or any of them, into shares of a smaller nominal amount than its existing shares, or

(b) consolidate and divide all or any of its share capital into shares of a larger nominal amount than its existing shares.

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(2) In any sub-division, consolidation or division of shares under this section, the proportion between the amount paid and the amount (if any) unpaid on each resulting share must be the same as it was in the case of the share from which that share is derived.

(3) A company may exercise a power conferred by this section only if its members have passed a resolution authorising it to do so.

(4) A resolution under subsection (3) may authorise a company—

(a) to exercise more than one of the powers conferred by this section;

(b) to exercise a power on more than one occasion;

(c) to exercise a power at a specified time or in specified circumstances.

(5) The company's articles may exclude or restrict the exercise of any power conferred by this section.

619 Notice to registrar of sub-division or consolidation

(1) If a company exercises the power conferred by section 618 (sub-division or consolidation of shares) it must within one month after doing so give notice to the registrar, specifying the shares affected.

(2) The notice must be accompanied by a statement of capital.

(3) The statement of capital must state with respect to the company's share capital immediately following the exercise of the power—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

[F766(ba) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and**]**

(c) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class, F767...

F767(d) . . . . . .

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

(a) the company, and

(b) every officer of the company who is in default.

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

Textual Amendments

F766 S. 619(3)(ba) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 6(a)**; S.I. 2016/321, reg. 6(e)

F767 S. 619(3)(d) and word omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 6(b)**; S.I. 2016/321, reg. 6(e)

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Commencement Information

I227 S. 619 wholly in force at 1.10.2009; s. 619 not in force at Royal Assent, see s. 1300; s. 619 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 614 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Reconversion of stock into shares

620 Reconversion of stock into shares

(1) A limited company that has converted paid-up shares into stock (before the repeal by this Act of the power to do so) may reconvert that stock into paid-up shares of any nominal value.

(2) A company may exercise the power conferred by this section only if its members have passed an ordinary resolution authorising it to do so.

(3) A resolution under subsection (2) may authorise a company to exercise the power conferred by this section—

(a) on more than one occasion;

(b) at a specified time or in specified circumstances.

621 Notice to registrar of reconversion of stock into shares

(1) If a company exercises a power conferred by section 620 (reconversion of stock into shares) it must within one month after doing so give notice to the registrar, specifying the stock affected.

(2) The notice must be accompanied by a statement of capital.

(3) The statement of capital must state with respect to the company's share capital immediately following the exercise of the power—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

[F768(ba) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and**]**

(c) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class, F769...

F769(d) . . . . . .

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

(a) the company, and

(b) every officer of the company who is in default.

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

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Textual Amendments

F768 S. 621(3)(ba) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 7(a)**; S.I. 2016/321, reg. 6(e)

F769 S. 621(3)(d) and word omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 7(b)**; S.I. 2016/321, reg. 6(e)

Commencement Information

I228 S. 621 wholly in force at 1.10.2009; s. 621 not in force at Royal Assent, see s. 1300; s. 621 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 621 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Redenomination of share capital

622 Redenomination of share capital

(1) A limited company having a share capital may by resolution redenominate its share capital or any class of its share capital.

"Redenominate" means convert shares from having a fixed nominal value in one currency to having a fixed nominal value in another currency.

(2) The conversion must be made at an appropriate spot rate of exchange specified in the resolution.

(3) The rate must be either—

(a) a rate prevailing on a day specified in the resolution, or

(b) a rate determined by taking the average of rates prevailing on each consecutive day of a period specified in the resolution.

The day or period specified for the purposes of paragraph (a) or (b) must be within the period of 28 days ending on the day before the resolution is passed.

(4) A resolution under this section may specify conditions which must be met before the redenomination takes effect.

(5) Redenomination in accordance with a resolution under this section takes effect—

(a) on the day on which the resolution is passed, or

(b) on such later day as may be determined in accordance with the resolution.

(6) A resolution under this section lapses if the redenomination for which it provides has not taken effect at the end of the period of 28 days beginning on the date on which it is passed.

(7) A company's articles may prohibit or restrict the exercise of the power conferred by this section.

(8) Chapter 3 of Part 3 (resolutions affecting a company's constitution) applies to a resolution under this section.

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623 Calculation of new nominal values

For each class of share the new nominal value of each share is calculated as follows:
Step One

Take the aggregate of the old nominal values of all the shares of that class.

Step Two

Translate that amount into the new currency at the rate of exchange specified in the resolution.

Step Three

Divide that amount by the number of shares in the class.

624 Effect of redenomination

(1) The redenomination of shares does not affect any rights or obligations of members under the company's constitution, or any restrictions affecting members under the company's constitution.

In particular, it does not affect entitlement to dividends (including entitlement to dividends in a particular currency), voting rights or any liability in respect of amounts unpaid on shares.

(2) For this purpose the company's constitution includes the terms on which any shares of the company are allotted or held.

(3) Subject to subsection (1), references to the old nominal value of the shares in any agreement or statement, or in any deed, instrument or document, shall (unless the context otherwise requires) be read after the resolution takes effect as references to the new nominal value of the shares.

625 Notice to registrar of redenomination

(1) If a limited company having a share capital redenominates any of its share capital, it must within one month after doing so give notice to the registrar, specifying the shares redenominated.

(2) The notice must—

(a) state the date on which the resolution was passed, and

(b) be accompanied by a statement of capital.

(3) The statement of capital must state with respect to the company's share capital as redenominated by the resolution—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

[F770(ba) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and**]**

(c) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class, F771...

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F771(d) . . . . . .

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

(a) the company, and

(b) every officer of the company who is in default.

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

Textual Amendments

F770 S. 625(3)(ba) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 8(a)**; S.I. 2016/321, reg. 6(e)

F771 S. 625(3)(d) and word omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 8(b)**; S.I. 2016/321, reg. 6(e)

Commencement Information

I229 S. 625 wholly in force at 1.10.2009; s. 625 not in force at Royal Assent, see s. 1300; s. 625 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 625 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

626 Reduction of capital in connection with redenomination

(1) A limited company that passes a resolution redenominating some or all of its shares may, for the purpose of adjusting the nominal values of the redenominated shares to obtain values that are, in the opinion of the company, more suitable, reduce its share capital under this section.

(2) A reduction of capital under this section requires a special resolution of the company.

(3) Any such resolution must be passed within three months of the resolution effecting the redenomination.

(4) The amount by which a company's share capital is reduced under this section must not exceed 10% of the nominal value of the company's allotted share capital immediately after the reduction.

(5) A reduction of capital under this section does not extinguish or reduce any liability in respect of share capital not paid up.

(6) Nothing in Chapter 10 applies to a reduction of capital under this section.

627 Notice to registrar of reduction of capital in connection with redenomination

(1) A company that passes a resolution under section 626 (reduction of capital in connection with redenomination) must within 15 days after the resolution is passed give notice to the registrar stating—

(a) the date of the resolution, and

(b) the date of the resolution under section 622 in connection with which it was passed.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

This is in addition to the copies of the resolutions themselves that are required to be delivered to the registrar under Chapter 3 of Part 3.

(2) The notice must be accompanied by a statement of capital.

(3) The statement of capital must state with respect to the company's share capital as reduced by the resolution—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

[F772(ba) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and**]**

(c) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class, F773...

F773(d) . . . . . .

(4) The registrar must register the notice and the statement on receipt.

(5) The reduction of capital is not effective until those documents are registered.

(6) The company must also deliver to the registrar, within 15 days after the resolution is passed, a statement by the directors confirming that the reduction in share capital is in accordance with section 626(4) (reduction of capital not to exceed 10% of nominal value of allotted shares immediately after reduction).

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

(a) the company, and

(b) every officer of the company who is in default.

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

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

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

Textual Amendments

F772 S. 627(3)(ba) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 9(a)**; S.I. 2016/321, reg. 6(e)

F773 S. 627(3)(d) and word omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 9(b)**; S.I. 2016/321, reg. 6(e)

Commencement Information

I230 S. 627 wholly in force at 1.10.2009; s. 627 not in force at Royal Assent, see s. 1300; s. 627 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 627 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Status: *Point in time view as at 31/12/2020.*
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628 Redenomination reserve

(1) The amount by which a company's share capital is reduced under section 626 (reduction of capital in connection with redenomination) must be transferred to a reserve, called "the redenomination reserve".

(2) The redenomination reserve may be applied by the company in paying up shares to be allotted to members as fully paid bonus shares.

(3) Subject to that, the provisions of the Companies Acts relating to the reduction of a company's share capital apply as if the redenomination reserve were paid-up share capital of the company.

CHAPTER 9

CLASSES OF SHARE AND CLASS RIGHTS

Introductory

629 Classes of shares

(1) For the purposes of the Companies Acts shares are of one class if the rights attached to them are in all respects uniform.

(2) For this purpose the rights attached to shares are not regarded as different from those attached to other shares by reason only that they do not carry the same rights to dividends in the twelve months immediately following their allotment.

Commencement Information

I231 S. 629 wholly in force at 1.10.2009; s. 629 not in force at Royal Assent see s. 1300; s. 629 in force for certain purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(3)(g)** (with saving in art. 12); s. 629 in force for certain further purposes at 6.4.2008 by S.I. 2007/3495, **art. 3(3)(f)** (with savings in arts. 7, 12); s. 629 in force otherwise at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Variation of class rights

630 Variation of class rights: companies having a share capital

(1) This section is concerned with the variation of the rights attached to a class of shares in a company having a share capital.

(2) Rights attached to a class of a company's shares may only be varied—

(a) in accordance with provision in the company's articles for the variation of those rights, or

(b) where the company's articles contain no such provision, if the holders of shares of that class consent to the variation in accordance with this section.

(3) This is without prejudice to any other restrictions on the variation of the rights.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(4) The consent required for the purposes of this section on the part of the holders of a class of a company's shares is—

(a) consent in writing from the holders of at least three-quarters in nominal value of the issued shares of that class (excluding any shares held as treasury shares), or

(b) a special resolution passed at a separate general meeting of the holders of that class sanctioning the variation.

(5) Any amendment of a provision contained in a company's articles for the variation of the rights attached to a class of shares, or the insertion of any such provision into the articles, is itself to be treated as a variation of those rights.

(6) In this section, and (except where the context otherwise requires) in any provision in a company's articles for the variation of the rights attached to a class of shares, references to the variation of those rights include references to their abrogation.

631 Variation of class rights: companies without a share capital

(1) This section is concerned with the variation of the rights of a class of members of a company where the company does not have a share capital.

(2) Rights of a class of members may only be varied—

(a) in accordance with provision in the company's articles for the variation of those rights, or

(b) where the company's articles contain no such provision, if the members of that class consent to the variation in accordance with this section.

(3) This is without prejudice to any other restrictions on the variation of the rights.

(4) The consent required for the purposes of this section on the part of the members of a class is—

(a) consent in writing from at least three-quarters of the members of the class, or

(b) a special resolution passed at a separate general meeting of the members of that class sanctioning the variation.

(5) Any amendment of a provision contained in a company's articles for the variation of the rights of a class of members, or the insertion of any such provision into the articles, is itself to be treated as a variation of those rights.

(6) In this section, and (except where the context otherwise requires) in any provision in a company's articles for the variation of the rights of a class of members, references to the variation of those rights include references to their abrogation.

632 Variation of class rights: saving for court's powers under other provisions

Nothing in section 630 or 631 (variation of class rights) affects the power of the court under—

section 98 (application to cancel resolution for public company to be re-registered as private),

Part 26 (arrangements and reconstructions**[**F774: general**]**)

[F775 Part 26A (arrangements and reconstructions: companies in financial difficulty)**]**, or

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Part 30 (protection of members against unfair prejudice).

Textual Amendments

F774 Words in s. 632 inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 33(7)(a)** (with ss. 2(2), 5(2))

F775 S. 632 entry inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 33(7)(b)** (with ss. 2(2), 5(2))

633 Right to object to variation: companies having a share capital

(1) This section applies where the rights attached to any class of shares in a company are varied under section 630 (variation of class rights: companies having a share capital).

(2) The holders of not less in the aggregate than 15% of the issued shares of the class in question (being persons who did not consent to or vote in favour of the resolution for the variation) may apply to the court to have the variation cancelled.

For this purpose any of the company's share capital held as treasury shares is disregarded.

(3) If such an application is made, the variation has no effect unless and until it is confirmed by the court.

(4) Application to the court—

(a) must be made within 21 days after the date on which the consent was given or the resolution was passed (as the case may be), and

(b) may be made on behalf of the shareholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(5) The court, after hearing the applicant and any other persons who apply to the court to be heard and appear to the court to be interested in the application, may, if satisfied having regard to all the circumstances of the case that the variation would unfairly prejudice the shareholders of the class represented by the applicant, disallow the variation, and shall if not so satisfied confirm it.

The decision of the court on any such application is final.

(6) References in this section to the variation of the rights of holders of a class of shares include references to their abrogation.

634 Right to object to variation: companies without a share capital

(1) This section applies where the rights of any class of members of a company are varied under section 631 (variation of class rights: companies without a share capital).

(2) Members amounting to not less than 15% of the members of the class in question (being persons who did not consent to or vote in favour of the resolution for the variation) may apply to the court to have the variation cancelled.

(3) If such an application is made, the variation has no effect unless and until it is confirmed by the court.

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(4) Application to the court must be made within 21 days after the date on which the consent was given or the resolution was passed (as the case may be) and may be made on behalf of the members entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(5) The court, after hearing the applicant and any other persons who apply to the court to be heard and appear to the court to be interested in the application, may, if satisfied having regard to all the circumstances of the case that the variation would unfairly prejudice the members of the class represented by the applicant, disallow the variation, and shall if not so satisfied confirm it.

The decision of the court on any such application is final.

(6) References in this section to the variation of the rights of a class of members include references to their abrogation.

635 Copy of court order to be forwarded to the registrar

(1) The company must within 15 days after the making of an order by the court on an application under section 633 or 634 (objection to variation of class rights) forward a copy of the order to the registrar.

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

(a) the company, and

(b) every officer of the company who is in default.

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

Matters to be notified to the registrar

636 Notice of name or other designation of class of shares

(1) Where a company assigns a name or other designation, or a new name or other designation, to any class or description of its shares, it must within one month from doing so deliver to the registrar a notice giving particulars of the name or designation so assigned.

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

(a) the company, and

(b) every officer of the company who is in default.

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

637 Notice of particulars of variation of rights attached to shares

(1) Where the rights attached to any shares of a company are varied, the company must within one month from the date on which the variation is made deliver to the registrar a notice giving particulars of the variation.

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

(a) the company, and

(b) every officer of the company who is in default.

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

638 Notice of new class of members

(1) If a company not having a share capital creates a new class of members, the company must within one month from the date on which the new class is created deliver to the registrar a notice containing particulars of the rights attached to that class.

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

(a) the company, and

(b) every officer of the company who is in default.

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

639 Notice of name or other designation of class of members

(1) Where a company not having a share capital assigns a name or other designation, or a new name or other designation, to any class of its members, it must within one month from doing so deliver to the registrar a notice giving particulars of the name or designation so assigned.

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

(a) the company, and

(b) every officer of the company who is in default.

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

640 Notice of particulars of variation of class rights

(1) If the rights of any class of members of a company not having a share capital are varied, the company must within one month from the date on which the variation is made deliver to the registrar a notice containing particulars of the variation.

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

(a) the company, and

(b) every officer of the company who is in default.

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

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CHAPTER 10

REDUCTION OF SHARE CAPITAL

Introductory

641 Circumstances in which a company may reduce its share capital

(1) A limited company having a share capital may reduce its share capital—

(a) in the case of a private company limited by shares, by special resolution supported by a solvency statement (see sections 642 to 644);

(b) in any case, by special resolution confirmed by the court (see sections 645 to 651).

(2) A company may not reduce its capital under subsection (1)(a) if as a result of the reduction there would no longer be any member of the company holding shares other than redeemable shares.

[F776(2A) A company may not reduce its share capital under subsection (1)(a) or (b) as part of a scheme by virtue of which a person, or a person together with its associates, is to acquire all the shares in the company or (where there is more than one class of shares in a company) all the shares of one or more classes, in each case other than shares that are already held by that person or its associates.

(2B) Subsection (2A) does not apply to a scheme under which—

(a) the company is to have a new parent undertaking,

(b) all or substantially all of the members of the company become members of the parent undertaking, and

(c) the members of the company are to hold proportions of the equity share capital of the parent undertaking in the same or substantially the same proportions as they hold the equity share capital of the company.

(2C) In this section—

"associate" has the meaning given by section 988 (meaning of "associate"), reading references in that section to an offeror as references to the person acquiring the shares in the company;

"scheme" means a compromise or arrangement sanctioned by the court under Part 26 **[**F777or 26A**]** (arrangements and reconstructions).**]**

(3) **[**F778Subject to subsections (2) to (2B)**]**, a company may reduce its share capital under this section in any way.

(4) In particular, a company may—

(a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up, or

(b) either with or without extinguishing or reducing liability on any of its shares—

(i) cancel any paid-up share capital that is lost or unrepresented by available assets, or

(ii) repay any paid-up share capital in excess of the company's wants.

(5) A special resolution under this section may not provide for a reduction of share capital to take effect later than the date on which the resolution has effect in accordance with this Chapter.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(6) This Chapter (apart from subsection (5) above) has effect subject to any provision of the company's articles restricting or prohibiting the reduction of the company's share capital.

(7) **[**[F779]In subsection (1)(b), section 91(5)(b)(iii), sections 645 to 651 (except in **[**[F780]the phrases "sanctioned by the court under Part 26" and "sanctioned by the court under Part 26A"**]**) and 653(1) "the court" means, in England and Wales, the High Court.**]**

Textual Amendments

F776 S. 641(2A)-(2C) inserted (4.3.2015) by The Companies Act 2006 (Amendment of Part 17) Regulations 2015 (S.I. 2015/472), regs. 2(1), **3(2)** (with reg. 2(2))

F777 Words in s. 641(2C) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 33(8)(a)** (with ss. 2(2), 5(2))

F778 Words in s. 641(3) substituted (4.3.2015) by The Companies Act 2006 (Amendment of Part 17) Regulations 2015 (S.I. 2015/472), regs. 2(1), **3(3)** (with reg. 2(2))

F779 S. 641(7) inserted (22.4.2014) by S.I. 1991/724, Sch. Pt. 1 (as amended by The High Court and County Court Jurisdiction (Amendment) Order 2014 (S.I. 2014/821), arts. 1, **2(10)(a)(ii)** (with art. 3))

F780 Words in s. 641(7) substituted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 33(8)(b)** (with ss. 2(2), 5(2))

Modifications etc. (not altering text)

C1042 S. 641 modified (1.10.2008) by The Companies Act 2006 (Commencement No. 7, Transitional Provisions and Savings) Order 2008 (S.I. 2008/1886), **art. 3** (which article was revoked (1.10.2009) by S.I. 2008/2860, **art. 6** (subject to Sch. 2) (with arts. 5, 7, 8))

Commencement Information

I232 S. 641 wholly in force at 1.10.2009; s. 641 not in force at Royal Assent see s. 1300; s. 641(1)(a)(2)-(6) in force at 1.10.2008 by S.I. 2008/1886, **art. 2** (with arts. 6, 7); s. 641(1)(b) in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Private companies: reduction of capital supported by solvency statement

642 Reduction of capital supported by solvency statement

(1) A resolution for reducing share capital of a private company limited by shares is supported by a solvency statement if—

(a) the directors of the company make a statement of the solvency of the company in accordance with section 643 (a "solvency statement") not more than 15 days before the date on which the resolution is passed, and

(b) the resolution and solvency statement are registered in accordance with section 644.

(2) Where the resolution is proposed as a written resolution, a copy of the solvency statement must be sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him.

(3) Where the resolution is proposed at a general meeting, a copy of the solvency statement must be made available for inspection by members of the company throughout that meeting.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(4) The validity of a resolution is not affected by a failure to comply with subsection (2) or (3).

643 Solvency statement

(1) A solvency statement is a statement that each of the directors—

(a) has formed the opinion, as regards the company's situation at the date of the statement, that there is no ground on which the company could then be found to be unable to pay (or otherwise discharge) its debts; and

(b) has also formed the opinion—

(i) if it is intended to commence the winding up of the company within twelve months of that date, that the company will be able to pay (or otherwise discharge) its debts in full within twelve months of the commencement of the winding up; or

(ii) in any other case, that the company will be able to pay (or otherwise discharge) its debts as they fall due during the year immediately following that date.

(2) In forming those opinions, the directors must take into account all of the company's liabilities (including any contingent or prospective liabilities).

(3) The solvency statement must be in the prescribed form and must state—

(a) the date on which it is made, and

(b) the name of each director of the company.

(4) If the directors make a solvency statement without having reasonable grounds for the opinions expressed in it, and the statement is delivered to the registrar, an offence is committed by every director who is in default.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

Commencement Information

I233 S. 643 wholly in force at 1.1.2008; s. 643 not in force at Royal Assent, see s. 1300; s. 643 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 643 in force at 1.10.2008 in so far as not already in force by S.I. 2008/1886, **art. 2** (with arts. 6, 7)

644 Registration of resolution and supporting documents

(1) Within 15 days after the resolution for reducing share capital is passed the company must deliver to the registrar—

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(a) a copy of the solvency statement, and

(b) a statement of capital.

This is in addition to the copy of the resolution itself that is required to be delivered to the registrar under Chapter 3 of Part 3.

(2) The statement of capital must state with respect to the company's share capital as reduced by the resolution—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

[F781(ba) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and**]**

(c) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class, F782...

F782(d) . . . . . .

(3) The registrar must register the documents delivered to him under subsection (1) on receipt.

(4) The resolution does not take effect until those documents are registered.

(5) The company must also deliver to the registrar, within 15 days after the resolution is passed, a statement by the directors confirming that the solvency statement was—

(a) made not more than 15 days before the date on which the resolution was passed, and

(b) provided to members in accordance with section 642(2) or (3).

(6) The validity of a resolution is not affected by—

(a) a failure to deliver the documents required to be delivered to the registrar under subsection (1) within the time specified in that subsection, or

(b) a failure to comply with subsection (5).

(7) If the company delivers to the registrar a solvency statement that was not provided to members in accordance with section 642(2) or (3), an offence is committed by every officer of the company who is in default.

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

(a) the company, and

(b) every officer of the company who is in default.

(9) A person guilty of an offence under subsection (7) or (8) is liable—

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

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

Textual Amendments

F781 S. 644(2)(ba) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 10(a)**; S.I. 2016/321, reg. 6(e)

F782 S. 644(2)(d) and word omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 10(b)**; S.I. 2016/321, reg. 6(e)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C1043 S. 644 modified (1.10.2008) by The Companies Act 2006 (Commencement No. 7, Transitional Provisions and Savings) Order 2008 (S.I. 2008/1886), **art. 4** (which article was revoked (1.10.2009) by S.I. 2008/2860, **art. 6** (with arts. 5, 7, 8, Sch. 2))

Commencement Information

I234 S. 644 wholly in force at 1.10.2008; s. 644 not in force at Royal Assent, see s. 1300; s. 644 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 644 in force at 1.10.2008 in so far as not already in force by S.I. 2008/1886, **art. 2** (with arts. 6, 7)

Reduction of capital confirmed by the court

645 Application to court for order of confirmation

(1) Where a company has passed a resolution for reducing share capital, it may apply to the court for an order confirming the reduction.

(2) If the proposed reduction of capital involves either—

(a) diminution of liability in respect of unpaid share capital, or

(b) the payment to a shareholder of any paid-up share capital,

section 646 (creditors entitled to object to reduction) applies unless the court directs otherwise.

(3) The court may, if having regard to any special circumstances of the case it thinks proper to do so, direct that section 646 is not to apply as regards any class or classes of creditors.

(4) The court may direct that section 646 is to apply in any other case.

646 Creditors entitled to object to reduction

(1) Where this section applies (see section 645(2) and (4)), every creditor of the company who

[[F783](a)**]** at the date fixed by the court is entitled to any debt or claim that, if that date were the commencement of the winding up of the company would be admissible in proof against the company,**[**[F784] and

(b) can show that there is a real likelihood that the reduction would result in the company being unable to discharge his debt or claim when it fell due,**]**

is entitled to object to the reduction of capital.

(2) The court shall settle a list of creditors entitled to object.

(3) For that purpose the court—

(a) shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and

(b) may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction of capital.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(4) If a creditor entered on the list whose debt or claim is not discharged or has not determined does not consent to the reduction, the court may, if it thinks fit, dispense with the consent of that creditor on the company securing payment of his debt or claim.

(5) For this purpose the debt or claim must be secured by appropriating (as the court may direct) the following amount—

(a) if the company admits the full amount of the debt or claim or, though not admitting it, is willing to provide for it, the full amount of the debt or claim;

(b) if the company does not admit, and is not willing to provide for, the full amount of the debt or claim, or if the amount is contingent or not ascertained, an amount fixed by the court after the like enquiry and adjudication as if the company were being wound up by the court.

Textual Amendments

F783 Words in s. 646(1) inserted (1.10.2009) by The Companies (Share Capital and Acquisition by Company of its Own Shares) Regulations 2009 (S.I. 2009/2022), **reg. 3(a)**

F784 S. 646(1)(b) and word inserted (1.10.2009) by The Companies (Share Capital and Acquisition by Company of its Own Shares) Regulations 2009 (S.I. 2009/2022), **reg. 3(b)**

647 Offences in connection with list of creditors

(1) If an officer of the company—

(a) intentionally or recklessly—

(i) conceals the name of a creditor entitled to object to the reduction of capital, or

(ii) misrepresents the nature or amount of the debt or claim of a creditor, or

(b) is knowingly concerned in any such concealment or misrepresentation,

he commits an offence.

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

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

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

648 Court order confirming reduction

(1) The court may make an order confirming the reduction of capital on such terms and conditions as it thinks fit.

(2) The court must not confirm the reduction unless it is satisfied, with respect to every creditor of the company who is entitled to object to the reduction of capital that either—

(a) his consent to the reduction has been obtained, or

(b) his debt or claim has been discharged, or has determined or has been secured.

(3) Where the court confirms the reduction, it may order the company to publish (as the court directs) the reasons for reduction of capital, or such other information in regard to it as the court thinks expedient with a view to giving proper information to the public, and (if the court thinks fit) the causes that led to the reduction.

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(4) The court may, if for any special reason it thinks proper to do so, make an order directing that the company must, during such period (commencing on or at any time after the date of the order) as is specified in the order, add to its name as its last words the words "and reduced".

If such an order is made, those words are, until the end of the period specified in the order, deemed to be part of the company's name.

649 Registration of order and statement of capital

(1) The registrar, on production of an order of the court confirming the reduction of a company's share capital and the delivery of a copy of the order and of a statement of capital (approved by the court), shall register the order and statement.

This is subject to section 650 (public company reducing capital below authorised minimum).

(2) The statement of capital must state with respect to the company's share capital as altered by the order—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

[F785(ba) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and**]**

(c) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class, F786...

F786(d) . . . . . .

(3) The resolution for reducing share capital, as confirmed by the court's order, takes effect—

(a) in the case of a reduction of share capital that forms part of a compromise or arrangement sanctioned by the court under Part 26 (arrangements and reconstructions**[**F787: general**]**)—

(i) on delivery of the order and statement of capital to the registrar, or

(ii) if the court so orders, on the registration of the order and statement of capital;

[F788(aa) in the case of a reduction of share capital that forms part of a compromise or arrangement sanctioned by the court under Part 26A (arrangements and reconstructions: companies in financial difficulty)—

(i) in the case of any company other than one to which sub-paragraph (ii) applies, on delivery of the order and statement of capital to the registrar;

(ii) in the case of an overseas company that is not required to register particulars under section 1046, on publication of the order and statement of capital in the Gazette;

(iii) in either case, if the court so orders, on the registration of the order and statement of capital;**]**

(b) in **[**F789any case not falling within paragraph (a) or (aa)**]**, on the registration of the order and statement of capital.

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(4) Notice of the registration of the order and statement of capital must be published in such manner as the court may direct.

(5) The registrar must certify the registration of the order and statement of capital.

(6) The certificate—

(a) must be signed by the registrar or authenticated by the registrar's official seal, and

(b) is conclusive evidence—

(i) that the requirements of this Act with respect to the reduction of share capital have been complied with, and

(ii) that the company's share capital is as stated in the statement of capital.

Textual Amendments

F785 S. 649(2)(ba) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 11(a)**; S.I. 2016/321, reg. 6(e)

F786 S. 649(2)(d) and word omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 11(b)**; S.I. 2016/321, reg. 6(e)

F787 Word in s. 649(3)(a) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 33(9)(a)** (with ss. 2(2), 5(2))

F788 S. 649(3)(aa) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 33(9)(b)** (with ss. 2(2), 5(2))

F789 Words in s. 649(3)(b) substituted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 33(9)(c)** (with ss. 2(2), 5(2))

Commencement Information

I235 S. 649 wholly in force at 1.10.2009; s. 649 not in force at Royal Assent, see s. 1300; s. 649 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 649 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Public company reducing capital below authorised minimum

650 Public company reducing capital below authorised minimum

(1) This section applies where the court makes an order confirming a reduction of a public company's capital that has the effect of bringing the nominal value of its allotted share capital below the authorised minimum.

(2) The registrar must not register the order unless either—

(a) the court so directs, or

(b) the company is first re-registered as a private company.

(3) Section 651 provides an expedited procedure for re-registration in these circumstances.

651 Expedited procedure for re-registration as a private company

(1) The court may authorise the company to be re-registered as a private company without its having passed the special resolution required by section 97.

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(2) If it does so, the court must specify in the order the changes to the company's name and articles to be made in connection with the re-registration.

(3) The company may then be re-registered as a private company if an application to that effect is delivered to the registrar together with—

(a) a copy of the court's order, and

(b) notice of the company's name, and a copy of the company's articles, as altered by the court's order.

(4) On receipt of such an application the registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

(5) The certificate must state that it is issued on re-registration and the date on which it is issued.

(6) On the issue of the certificate—

(a) the company by virtue of the issue of the certificate becomes a private company, and

(b) the changes in the company's name and articles take effect.

(7) The certificate is conclusive evidence that the requirements of this Act as to re-registration have been complied with.

Modifications etc. (not altering text)

C1044S. 651 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), Sch. 4 para. 8(3), **(4)**

Effect of reduction of capital

652 Liability of members following reduction of capital

(1) Where a company's share capital is reduced a member of the company (past or present) is not liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between—

(a) the nominal amount of the share as notified to the registrar in the statement of capital delivered under section 644 **[**F790, 649, 1028A or 1032A of this Act or paragraph 7 of Schedule 4 to the Small Business, Enterprise and Employment Act 2015**]**, and

(b) the amount paid on the share or the reduced amount (if any) which is deemed to have been paid on it, as the case may be.

(2) This is subject to section 653 (liability to creditor in case of omission from list).

(3) Nothing in this section affects the rights of the contributories among themselves.

Textual Amendments

F790 Words in s. 652(1)(a) substituted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 25**

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Modifications etc. (not altering text)

C1045 S. 652 modified (1.10.2008) by The Companies Act 2006 (Commencement No. 7, Transitional Provisions and Savings) Order 2008 (S.I. 2008/1886), **art. 5** (which article was revoked (1.10.2009) by S.I. 2008/2860, **art. 6** (with arts. 5, 7, 8, Sch. 2))

Commencement Information

I236 S. 652 wholly in force at 1.10.2009; s. 652 not in force at Royal Assent see s. 1300; s. 652(1)(3) in force for specified purposes at 1.10.2008 by S.I. 2008/1886, **art. 2** (with arts 6, 7); s. 652 in force at 1.10.2009 in so far as not already in force by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

653 Liability to creditor in case of omission from list of creditors

(1) This section applies where, in the case of a reduction of capital confirmed by the court—

(a) a creditor entitled to object to the reduction of share capital is by reason of his ignorance—

(i) of the proceedings for reduction of share capital, or

(ii) of their nature and effect with respect to his debt or claim,

not entered on the list of creditors, and

(b) after the reduction of capital the company is unable to pay the amount of his debt or claim.

(2) Every person who was a member of the company at the date on which the resolution for reducing capital took effect under section 649(3) is liable to contribute for the payment of the debt or claim an amount not exceeding that which he would have been liable to contribute if the company had commenced to be wound up on the day before that date.

(3) If the company is wound up, the court on the application of the creditor in question, and proof of ignorance as mentioned in subsection (1)(a), may if it thinks fit—

(a) settle accordingly a list of persons liable to contribute under this section, and

(b) make and enforce calls and orders on them as if they were ordinary contributories in a winding up.

(4) The reference in subsection (1)(b) to a company being unable to pay the amount of a debt or claim has the same meaning as in section 123 of the Insolvency Act 1986 (c. 45) or Article 103 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

CHAPTER 11

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

654 Treatment of reserve arising from reduction of capital

(1) A reserve arising from the reduction of a company's share capital is not distributable, subject to any provision made by order under this section.

(2) The Secretary of State may by order specify cases in which—

(a) the prohibition in subsection (1) does not apply, and

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(b) the reserve is to be treated for the purposes of Part 23 (distributions) as a realised profit.

(3) An order under this section is subject to affirmative resolution procedure.

Commencement Information

I237 S. 654 wholly in force at 1.10.2008; s. 654 not in force at Royal Assent see s. 1300; s. 654 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 654 in force at 1.10.2008 in so far as not already in force by S.I. 2008/1886, **art. 2** (with arts. 6, 7)

655 Shares no bar to damages against company

A person is not debarred from obtaining damages or other compensation from a company by reason only of his holding or having held shares in the company or any right to apply or subscribe for shares or to be included in the company's register of members**[**F791(or have his name and other particulars delivered to the registrar under Chapter 2A of Part 8 and registered by the registrar)**]** in respect of shares.

Textual Amendments

F791 Words in s. 655 inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 24**; S.I. 2016/321, reg. 6(c)

656 Public companies: duty of directors to call meeting on serious loss of capital

(1) Where the net assets of a public company are half or less of its called-up share capital, the directors must call a general meeting of the company to consider whether any, and if so what, steps should be taken to deal with the situation.

(2) They must do so not later than 28 days from the earliest day on which that fact is known to a director of the company.

(3) The meeting must be convened for a date not later than 56 days from that day.

(4) If there is a failure to convene a meeting as required by this section, each of the directors of the company who—

(a) knowingly authorises or permits the failure, or

(b) after the period during which the meeting should have been convened, knowingly authorises or permits the failure to continue,

commits an offence.

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

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

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

(6) Nothing in this section authorises the consideration at a meeting convened in pursuance of subsection (1) of any matter that could not have been considered at that meeting apart from this section.

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657 General power to make further provision by regulations

(1) The Secretary of State may by regulations modify the following provisions of this Part—

sections 552 and 553 (prohibited commissions, discounts and allowances),

Chapter 5 (payment for shares),

Chapter 6 (public companies: independent valuation of non-cash consideration),

Chapter 7 (share premiums),

sections 622 to 628 (redenomination of share capital),

Chapter 10 (reduction of capital), and

section 656 (public companies: duty of directors to call meeting on serious loss of capital).

(2) The regulations may—

(a) amend or repeal any of those provisions, or

(b) make such other provision as appears to the Secretary of State appropriate in place of any of those provisions.

(3) Regulations under this section may make consequential amendments or repeals in other provisions of this Act, or in other enactments.

(4) Regulations under this section are subject to affirmative resolution procedure.

Commencement Information

I238 S. 657 wholly in force at 1.10.2009; s. 657 not in force at Royal Assent, see s. 1300; s. 657 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 657 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(k)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

PART 18

ACQUISITION BY LIMITED COMPANY OF ITS OWN SHARES

Modifications etc. (not altering text)

C1046 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

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CHAPTER 1

GENERAL PROVISIONS

Introductory

658 General rule against limited company acquiring its own shares

(1) A limited company must not acquire its own shares, whether by purchase, subscription or otherwise, except in accordance with the provisions of this Part.

(2) If a company purports to act in contravention of this section—

(a) an offence is committed by—

(i) the company, and

(ii) every officer of the company who is in default, and

(b) the purported acquisition is void.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or a fine not exceeding the statutory maximum (or both);

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

Modifications etc. (not altering text)

C1047S. 658 excluded (E.W.S.) by The Open-Ended Investment Companies Regulations 2001 (S.I. 2001/1228), reg. 11B (as inserted (21.12.2011) by The Open-Ended Investment Companies (Amendment) Regulations 2011 (S.I. 2011/3049), regs. 1, **3(3)** (with reg. 10(1)))

659 Exceptions to general rule

(1) A limited company may acquire any of its own fully paid shares otherwise than for valuable consideration.

(2) Section 658 does not prohibit—

(a) the acquisition of shares in a reduction of capital duly made;

(b) the purchase of shares in pursuance of an order of the court under—

(i) section 98 (application to court to cancel resolution for re-registration as a private company),

(ii) section 721(6) (powers of court on objection to redemption or purchase of shares out of capital),

(iii) section 759 (remedial order in case of breach of prohibition of public offers by private company), or

(iv) Part 30 (protection of members against unfair prejudice);

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(c) the forfeiture of shares, or the acceptance of shares surrendered in lieu, in pursuance of the company's articles, for failure to pay any sum payable in respect of the shares.

Shares held by company's nominee

660 Treatment of shares held by nominee

(1) This section applies where shares in a limited company—

(a) are taken by a subscriber to the memorandum as nominee of the company,

(b) are issued to a nominee of the company, or

(c) are acquired by a nominee of the company, partly paid up, from a third person.

(2) For all purposes—

(a) the shares are to be treated as held by the nominee on his own account, and

(b) the company is to be regarded as having no beneficial interest in them.

(3) This section does not apply—

(a) to shares acquired otherwise than by subscription by a nominee of a public company, where—

(i) a person acquires shares in the company with financial assistance given to him, directly or indirectly, by the company for the purpose of or in connection with the acquisition, and

(ii) the company has a beneficial interest in the shares;

(b) to shares acquired by a nominee of the company when the company has no beneficial interest in the shares.

661 Liability of others where nominee fails to make payment in respect of shares

(1) This section applies where shares in a limited company—

(a) are taken by a subscriber to the memorandum as nominee of the company,

(b) are issued to a nominee of the company, or

(c) are acquired by a nominee of the company, partly paid up, from a third person.

(2) If the nominee, having been called on to pay any amount for the purposes of paying up, or paying any premium on, the shares, fails to pay that amount within 21 days from being called on to do so, then—

(a) in the case of shares that he agreed to take as subscriber to the memorandum, the other subscribers to the memorandum, and

(b) in any other case, the directors of the company when the shares were issued to or acquired by him,

are jointly and severally liable with him to pay that amount.

(3) If in proceedings for the recovery of an amount under subsection (2) it appears to the court that the subscriber or director—

(a) has acted honestly and reasonably, and

(b) having regard to all the circumstances of the case, ought fairly to be relieved from liability,

the court may relieve him, either wholly or in part, from his liability on such terms as the court thinks fit.

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(4) If a subscriber to a company's memorandum or a director of a company has reason to apprehend that a claim will or might be made for the recovery of any such amount from him—

(a) he may apply to the court for relief, and

(b) the court has the same power to relieve him as it would have had in proceedings for recovery of that amount.

(5) This section does not apply to shares acquired by a nominee of the company when the company has no beneficial interest in the shares.

Shares held by or for public company

662 Duty to cancel shares in public company held by or for the company

(1) This section applies in the case of a public company—

(a) where shares in the company are forfeited, or surrendered to the company in lieu of forfeiture, in pursuance of the articles, for failure to pay any sum payable in respect of the shares;

(b) where shares in the company are surrendered to the company in pursuance of section 102C(1)(b) of the Building Societies Act 1986 (c. 53);

(c) where shares in the company are acquired by it (otherwise than in accordance with this Part or Part 30 (protection of members against unfair prejudice)) and the company has a beneficial interest in the shares;

(d) where a nominee of the company acquires shares in the company from a third party without financial assistance being given directly or indirectly by the company and the company has a beneficial interest in the shares; or

(e) where a person acquires shares in the company, with financial assistance given to him, directly or indirectly, by the company for the purpose of or in connection with the acquisition, and the company has a beneficial interest in the shares.

(2) Unless the shares or any interest of the company in them are previously disposed of, the company must—

(a) cancel the shares and diminish the amount of the company's share capital by the nominal value of the shares cancelled, and

(b) where the effect is that the nominal value of the company's allotted share capital is brought below the authorised minimum, apply for re-registration as a private company, stating the effect of the cancellation.

(3) It must do so no later than—

(a) in a case within subsection (1)(a) or (b), three years from the date of the forfeiture or surrender;

(b) in a case within subsection (1)(c) or (d), three years from the date of the acquisition;

(c) in a case within subsection (1)(e), one year from the date of the acquisition.

(4) The directors of the company may take any steps necessary to enable the company to comply with this section, and may do so without complying with the provisions of Chapter 10 of Part 17 (reduction of capital).

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See also section 664 (re-registration as private company in consequence of cancellation).

(5) Neither the company nor, in a case within subsection (1)(d) or (e), the nominee or other shareholder may exercise any voting rights in respect of the shares.

(6) Any purported exercise of those rights is void.

Modifications etc. (not altering text)

C1048 Ss. 662-669 modified (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 7(1)** (with art. 10)

C1049 Ss. 662-669 modified (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 7(1)**

663 Notice of cancellation of shares

(1) Where a company cancels shares in order to comply with section 662, it must within one month after the shares are cancelled give notice to the registrar, specifying the shares cancelled.

(2) The notice must be accompanied by a statement of capital.

(3) The statement of capital must state with respect to the company's share capital immediately following the cancellation—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

[F792(ba) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and**]**

(c) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class, F793...

F793(d) . . . . . .

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

(a) the company, and

(b) every officer of the company who is in default.

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

Textual Amendments

F792 S. 663(3)(ba) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 12(a)**; S.I. 2016/321, reg. 6(e)

F793 S. 663(3)(d) and word omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 12(b)**; S.I. 2016/321, reg. 6(e)

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Modifications etc. (not altering text)

C1050 Ss. 662-669 modified (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 7(1)** (with art. 10)

C1051 Ss. 662-669 modified (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 7(1)**

Commencement Information

I239 S. 663 wholly in force at 1.10.2009; s. 663 not in force at Royal Assent, see s. 1300; s. 663 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 663 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(l)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

664 Re-registration as private company in consequence of cancellation

(1) Where a company is obliged to re-register as a private company to comply with section 662, the directors may resolve that the company should be so re-registered.

Chapter 3 of Part 3 (resolutions affecting a company's constitution) applies to any such resolution.

(2) The resolution may make such changes—

(a) in the company's name, and

(b) in the company's articles,

as are necessary in connection with its becoming a private company.

(3) The application for re-registration must contain a statement of the company's proposed name on re-registration.

(4) The application must be accompanied by—

(a) a copy of the resolution (unless a copy has already been forwarded under Chapter 3 of Part 3),

(b) a copy of the company's articles as amended by the resolution, and

(c) a statement of compliance.

(5) The statement of compliance required is a statement that the requirements of this section as to re-registration as a private company have been complied with.

(6) The registrar may accept the statement of compliance as sufficient evidence that the company is entitled to be re-registered as a private company.

Modifications etc. (not altering text)

C1052 Ss. 662-669 modified (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 7(1)** (with art. 10)

C1053 Ss. 662-669 modified (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 7(1)**

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665 Issue of certificate of incorporation on re-registration

(1) If on an application under section 664 the registrar is satisfied that the company is entitled to be re-registered as a private company, the company shall be re-registered accordingly.

(2) The registrar must issue a certificate of incorporation altered to meet the circumstances of the case.

(3) The certificate must state that it is issued on re-registration and the date on which it is issued.

(4) On the issue of the certificate—

(a) the company by virtue of the issue of the certificate becomes a private company, and

(b) the changes in the company's name and articles take effect.

(5) The certificate is conclusive evidence that the requirements of this Act as to re-registration have been complied with.

Modifications etc. (not altering text)

C1054 Ss. 662-669 modified (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 7(1)** (with art. 10)

C1055 Ss. 662-669 modified (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 7(1)**

666 Effect of failure to re-register

(1) If a public company that is required by section 662 to apply to be re-registered as a private company fails to do so before the end of the period specified in subsection (3) of that section, Chapter 1 of Part 20 (prohibition of public offers by private company) applies to it as if it were a private company.

(2) Subject to that, the company continues to be treated as a public company until it is so re-registered.

Modifications etc. (not altering text)

C1056 Ss. 662-669 modified (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 7(1)** (with art. 10)

C1057 Ss. 662-669 modified (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 7(1)**

667 Offence in case of failure to cancel shares or re-register

(1) This section applies where a company, when required to do by section 662—

(a) fails to cancel any shares, or

(b) fails to make an application for re-registration as a private company,

within the time specified in subsection (3) of that section.

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(2) An offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

Modifications etc. (not altering text)

C1058 Ss. 662-669 modified (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 7(1)** (with art. 10)

C1059 Ss. 662-669 modified (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 7(1)**

668 Application of provisions to company re-registering as public company

(1) This section applies where, after shares in a private company—

(a) are forfeited in pursuance of the company's articles or are surrendered to the company in lieu of forfeiture,

(b) are acquired by the company (otherwise than by any of the methods permitted by this Part or Part 30 (protection of members against unfair prejudice)), the company having a beneficial interest in the shares,

(c) are acquired by a nominee of the company from a third party without financial assistance being given directly or indirectly by the company, the company having a beneficial interest in the shares, or

(d) are acquired by a person with financial assistance given to him, directly or indirectly, by the company for the purpose of or in connection with the acquisition, the company having a beneficial interest in the shares,

the company is re-registered as a public company.

(2) In that case the provisions of sections 662 to 667 apply to the company as if it had been a public company at the time of the forfeiture, surrender or acquisition, subject to the following modification.

(3) The modification is that the period specified in section 662(3)(a), (b) or (c) (period for complying with obligations under that section) runs from the date of the re-registration of the company as a public company.

Modifications etc. (not altering text)

C1060 Ss. 662-669 modified (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 7(1)** (with art. 10)

C1061 S. 668 applied (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 7(2)** (with art. 10)

C1062 S. 668 applied (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 7(2)**

C1063 Ss. 662-669 modified (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 7(1)**

669 Transfer to reserve on acquisition of shares by public company or nominee

(1) Where—

(a) a public company, or a nominee of a public company, acquires shares in the company, and

(b) those shares are shown in a balance sheet of the company as an asset,

an amount equal to the value of the shares must be transferred out of profits available for dividend to a reserve fund and is not then available for distribution.

(2) Subsection (1) applies to an interest in shares as it applies to shares.

As it so applies the reference to the value of the shares shall be read as a reference to the value to the company of its interest in the shares.

Modifications etc. (not altering text)

C1064 Ss. 662-669 modified (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 12(1), **Sch. 3 para. 7(1)** (with art. 10)

C1065 Ss. 662-669 modified (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 7(1)**

Charges of public company on own shares

670 Public companies: general rule against lien or charge on own shares

(1) A lien or other charge of a public company on its own shares (whether taken expressly or otherwise) is void, except as permitted by this section.

(2) In the case of any description of company, a charge is permitted if the shares are not fully paid up and the charge is for an amount payable in respect of the shares.

(3) In the case of a company whose ordinary business—

(a) includes the lending of money, or

(b) consists of the provision of credit or the bailment (in Scotland, hiring) of goods under a hire-purchase agreement, or both,

a charge is permitted (whether the shares are fully paid or not) if it arises in connection with a transaction entered into by the company in the ordinary course of that business.

(4) In the case of a company that has been re-registered as a public company, a charge is permitted if it was in existence immediately before the application for re-registration.

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Supplementary provisions

671 Interests to be disregarded in determining whether company has beneficial interest

In determining for the purposes of this Chapter whether a company has a beneficial interest in shares, there shall be disregarded any such interest as is mentioned in—

section 672 (residual interest under pension scheme or employees' share scheme),

section 673 (employer's charges and other rights of recovery), or

section 674 (rights as personal representative or trustee).

672 Residual interest under pension scheme or employees' share scheme

(1) Where the shares are held on trust for the purposes of a pension scheme or employees' share scheme, there shall be disregarded any residual interest of the company that has not vested in possession.

(2) A "residual interest" means a right of the company to receive any of the trust property in the event of—

(a) all the liabilities arising under the scheme having been satisfied or provided for, or

(b) the company ceasing to participate in the scheme, or

(c) the trust property at any time exceeding what is necessary for satisfying the liabilities arising or expected to arise under the scheme.

(3) In subsection (2)—

(a) the reference to a right includes a right dependent on the exercise of a discretion vested by the scheme in the trustee or another person, and

(b) the reference to liabilities arising under a scheme includes liabilities that have resulted, or may result, from the exercise of any such discretion.

(4) For the purposes of this section a residual interest vests in possession—

(a) in a case within subsection (2)(a), on the occurrence of the event mentioned there (whether or not the amount of the property receivable pursuant to the right is ascertained);

(b) in a case within subsection (2)(b) or (c), when the company becomes entitled to require the trustee to transfer to it any of the property receivable pursuant to that right.

(5) Where by virtue of this section shares are exempt from section 660 or 661 (shares held by company's nominee) at the time they are taken, issued or acquired but the residual interest in question vests in possession before they are disposed of or fully paid up, those sections apply to the shares as if they had been taken, issued or acquired on the date on which that interest vests in possession.

(6) Where by virtue of this section shares are exempt from sections 662 to 668 (shares held by or for public company) at the time they are acquired but the residual interest in question vests in possession before they are disposed of, those sections apply to the shares as if they had been acquired on the date on which the interest vests in possession.

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673 Employer's charges and other rights of recovery

(1) Where the shares are held on trust for the purposes of a pension scheme there shall be disregarded—

(a) any charge or lien on, or set-off against, any benefit or other right or interest under the scheme for the purpose of enabling the employer or former employer of a member of the scheme to obtain the discharge of a monetary obligation due to him from the member;

(b) **[**F794any right to receive from the trustee of the scheme, or as trustee of the scheme to retain, an amount that can be recovered or retained—

F795(i) . . . . . .

(ii) under section 57 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49), or otherwise, as reimbursement or partial reimbursement for any contributions equivalent premium paid in connection with the scheme under Part 3 of that Act.**]**

(2) Where the shares are held on trust for the purposes of an employees' share scheme, there shall be disregarded any charge or lien on, or set-off against, any benefit or other right or interest under the scheme for the purpose of enabling the employer or former employer of a member of the scheme to obtain the discharge of a monetary obligation due to him from the member.

Textual Amendments

F794 S. 673(1)(b) omitted (N.I.) (6.4.2016 unless brought into operation earlier by an order under s. 53(1) of the amending Act) by virtue of Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 13 para. 74**

F795 S. 673(1)(b)(i) omitted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by virtue of Pensions Act 2014 (c. 19), s. 56(4), **Sch. 13 para. 76**

674 Rights as personal representative or trustee

Where the company is a personal representative or trustee, there shall be disregarded any rights that the company has in that capacity including, in particular—

(a) any right to recover its expenses or be remunerated out of the estate or trust property, and

(b) any right to be indemnified out of that property for any liability incurred by reason of any act or omission of the company in the performance of its duties as personal representative or trustee.

675 Meaning of "pension scheme"

(1) In this Chapter "pension scheme" means a scheme for the provision of benefits consisting of or including relevant benefits for or in respect of employees or former employees.

(2) In subsection (1) "relevant benefits" means any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death or in anticipation of retirement or, in connection with past service, after retirement or death.

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676 Application of provisions to directors

For the purposes of this Chapter references to "employer" and "employee", in the context of a pension scheme or employees' share scheme, shall be read as if a director of a company were employed by it.

CHAPTER 2

FINANCIAL ASSISTANCE FOR PURCHASE OF OWN SHARES

Introductory

677 Meaning of "financial assistance"

(1) In this Chapter "financial assistance" means—

(a) financial assistance given by way of gift,

(b) financial assistance given—

(i) by way of guarantee, security or indemnity (other than an indemnity in respect of the indemnifier's own neglect or default), or

(ii) by way of release or waiver,

(c) financial assistance given—

(i) by way of a loan or any other agreement under which any of the obligations of the person giving the assistance are to be fulfilled at a time when in accordance with the agreement any obligation of another party to the agreement remains unfulfilled, or

(ii) by way of the novation of, or the assignment (in Scotland, assignation) of rights arising under, a loan or such other agreement, or

(d) any other financial assistance given by a company where—

(i) the net assets of the company are reduced to a material extent by the giving of the assistance, or

(ii) the company has no net assets.

(2) "Net assets" here means the aggregate amount of the company's assets less the aggregate amount of its liabilities.

(3) For this purpose a company's liabilities include—

(a) where the company draws up Companies Act individual accounts, any provision of a kind specified for the purposes of this subsection by regulations under section 396, and

(b) where the company draws up IAS individual accounts, any provision made in those accounts.

Circumstances in which financial assistance prohibited

678 Assistance for acquisition of shares in public company

(1) Where a person is acquiring or proposing to acquire shares in a public company, it is not lawful for that company, or a company that is a subsidiary of that company, to give

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financial assistance directly or indirectly for the purpose of the acquisition before or at the same time as the acquisition takes place.

(2) Subsection (1) does not prohibit a company from giving financial assistance for the acquisition of shares in it or its holding company if—

(a) the company's principal purpose in giving the assistance is not to give it for the purpose of any such acquisition, or

(b) the giving of the assistance for that purpose is only an incidental part of some larger purpose of the company,

and the assistance is given in good faith in the interests of the company.

(3) Where—

(a) a person has acquired shares in a company, and

(b) a liability has been incurred (by that or another person) for the purpose of the acquisition,

it is not lawful for that company, or a company that is a subsidiary of that company, to give financial assistance directly or indirectly for the purpose of reducing or discharging the liability if, at the time the assistance is given, the company in which the shares were acquired is a public company.

(4) Subsection (3) does not prohibit a company from giving financial assistance if—

(a) the company's principal purpose in giving the assistance is not to reduce or discharge any liability incurred by a person for the purpose of the acquisition of shares in the company or its holding company, or

(b) the reduction or discharge of any such liability is only an incidental part of some larger purpose of the company,

and the assistance is given in good faith in the interests of the company.

(5) This section has effect subject to sections 681 and 682 (unconditional and conditional exceptions to prohibition).

679 Assistance by public company for acquisition of shares in its private holding company

(1) Where a person is acquiring or proposing to acquire shares in a private company, it is not lawful for a public company that is a subsidiary of that company to give financial assistance directly or indirectly for the purpose of the acquisition before or at the same time as the acquisition takes place.

(2) Subsection (1) does not prohibit a company from giving financial assistance for the acquisition of shares in its holding company if—

(a) the company's principal purpose in giving the assistance is not to give it for the purpose of any such acquisition, or

(b) the giving of the assistance for that purpose is only an incidental part of some larger purpose of the company,

and the assistance is given in good faith in the interests of the company.

(3) Where—

(a) a person has acquired shares in a private company, and

(b) a liability has been incurred (by that or another person) for the purpose of the acquisition,

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it is not lawful for a public company that is a subsidiary of that company to give financial assistance directly or indirectly for the purpose of reducing or discharging the liability.

(4) Subsection (3) does not prohibit a company from giving financial assistance if—

(a) the company's principal purpose in giving the assistance is not to reduce or discharge any liability incurred by a person for the purpose of the acquisition of shares in its holding company, or

(b) the reduction or discharge of any such liability is only an incidental part of some larger purpose of the company,

and the assistance is given in good faith in the interests of the company.

(5) This section has effect subject to sections 681 and 682 (unconditional and conditional exceptions to prohibition).

680 Prohibited financial assistance an offence

(1) If a company contravenes section 678(1) or (3) or section 679(1) or (3) (prohibited financial assistance) an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

Exceptions from prohibition

681 Unconditional exceptions

(1) Neither section 678 nor section 679 prohibits a transaction to which this section applies.

(2) Those transactions are—

(a) a distribution of the company's assets by way of—

(i) dividend lawfully made, or

(ii) distribution in the course of a company's winding up;

(b) an allotment of bonus shares;

(c) a reduction of capital under Chapter 10 of Part 17;

(d) a redemption of shares under Chapter 3 or a purchase of shares under Chapter 4 of this Part;

(e) anything done in pursuance of an order of the court under Part 26 **[**[F796]or 26A**]** (order sanctioning compromise or arrangement with members or creditors);

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(f) anything done under an arrangement made in pursuance of section 110 of the Insolvency Act 1986 (c. 45) or Article 96 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) (liquidator in winding up accepting shares as consideration for sale of company's property);

(g) anything done under an arrangement made between a company and its creditors that is binding on the creditors by virtue of Part 1 of the Insolvency Act 1986 or Part 2 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

Textual Amendments

F796 Words in s. 681(2)(e) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 34** (with ss. 2(2), 5(2))

682 Conditional exceptions

(1) Neither section 678 nor section 679 prohibits a transaction to which this section applies—

(a) if the company giving the assistance is a private company, or

(b) if the company giving the assistance is a public company and—

(i) the company has net assets that are not reduced by the giving of the assistance, or

(ii) to the extent that those assets are so reduced, the assistance is provided out of distributable profits.

(2) The transactions to which this section applies are—

(a) where the lending of money is part of the ordinary business of the company, the lending of money in the ordinary course of the company's business;

(b) the provision by the company, in good faith in the interests of the company or its holding company, of financial assistance for the purposes of an employees' share scheme;

(c) the provision of financial assistance by the company for the purposes of or in connection with anything done by the company (or another company in the same group) for the purpose of enabling or facilitating transactions in shares in the first-mentioned company or its holding company between, and involving the acquisition of beneficial ownership of those shares by—

(i) bona fide employees or former employees of that company (or another company in the same group), or

(ii) spouses or civil partners, widows, widowers or surviving civil partners, or minor children or step-children of any such employees or former employees;

(d) the making by the company of loans to persons (other than directors) employed in good faith by the company with a view to enabling those persons to acquire fully paid shares in the company or its holding company to be held by them by way of beneficial ownership.

(3) The references in this section to "net assets" are to the amount by which the aggregate of the company's assets exceeds the aggregate of its liabilities.

(4) For this purpose—

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(a) the amount of both assets and liabilities shall be taken to be as stated in the company's accounting records immediately before the financial assistance is given, and

(b) "liabilities" includes any amount retained as reasonably necessary for the purpose of providing for a liability the nature of which is clearly defined and that is either likely to be incurred or certain to be incurred but uncertain as to amount or as to the date on which it will arise.

(5) For the purposes of subsection (2)(c) a company is in the same group as another company if it is a holding company or subsidiary of that company or a subsidiary of a holding company of that company.

Supplementary

683 Definitions for this Chapter

(1) In this Chapter—

"distributable profits", in relation to the giving of any financial assistance—

(a) means those profits out of which the company could lawfully make a distribution equal in value to that assistance, and

(b) includes, in a case where the financial assistance consists of or includes, or is treated as arising in consequence of, the sale, transfer or other disposition of a non-cash asset, any profit that, if the company were to make a distribution of that character would be available for that purpose (see section 846); and

"distribution" has the same meaning as in Part 23 (distributions) (see section 829).

(2) In this Chapter—

(a) a reference to a person incurring a liability includes his changing his financial position by making an agreement or arrangement (whether enforceable or unenforceable, and whether made on his own account or with any other person) or by any other means, and

(b) a reference to a company giving financial assistance for the purposes of reducing or discharging a liability incurred by a person for the purpose of the acquisition of shares includes its giving such assistance for the purpose of wholly or partly restoring his financial position to what it was before the acquisition took place.

CHAPTER 3

REDEEMABLE SHARES

684 Power of limited company to issue redeemable shares

(1) A limited company having a share capital may issue shares that are to be redeemed or are liable to be redeemed at the option of the company or the shareholder ("redeemable shares"), subject to the following provisions.

(2) The articles of a private limited company may exclude or restrict the issue of redeemable shares.

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(3) A public limited company may only issue redeemable shares if it is authorised to do so by its articles.

(4) No redeemable shares may be issued at a time when there are no issued shares of the company that are not redeemable.

685 Terms and manner of redemption

(1) The directors of a limited company may determine the terms, conditions and manner of redemption of shares if they are authorised to do so—

(a) by the company's articles, or

(b) by a resolution of the company.

(2) A resolution under subsection (1)(b) may be an ordinary resolution, even though it amends the company's articles.

(3) Where the directors are authorised under subsection (1) to determine the terms, conditions and manner of redemption of shares—

(a) they must do so before the shares are allotted, and

(b) any obligation of the company to state in a statement of capital the rights attached to the shares extends to the terms, conditions and manner of redemption.

(4) Where the directors are not so authorised, the terms, conditions and manner of redemption of any redeemable shares must be stated in the company's articles.

686 Payment for redeemable shares

(1) Redeemable shares in a limited company may not be redeemed unless they are fully paid.

(2) The terms of redemption of shares in a limited company may provide that the amount payable on redemption may, by agreement between the company and the holder of the shares, be paid on a date later than the redemption date.

(3) Unless redeemed in accordance with a provision authorised by subsection (2), the shares must be paid for on redemption.

687 Financing of redemption

(1) A private limited company may redeem redeemable shares out of capital in accordance with Chapter 5.

(2) Subject to that, redeemable shares in a limited company may only be redeemed out of—

(a) distributable profits of the company, or

(b) the proceeds of a fresh issue of shares made for the purposes of the redemption.

(3) Any premium payable on redemption of shares in a limited company must be paid out of distributable profits of the company, subject to the following provision.

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(4) If the redeemable shares were issued at a premium, any premium payable on their redemption may be paid out of the proceeds of a fresh issue of shares made for the purposes of the redemption, up to an amount equal to—

(a) the aggregate of the premiums received by the company on the issue of the shares redeemed, or

(b) the current amount of the company's share premium account (including any sum transferred to that account in respect of premiums on the new shares),

whichever is the less.

(5) The amount of the company's share premium account is reduced by a sum corresponding (or by sums in the aggregate corresponding) to the amount of any payment made under subsection (4).

(6) This section is subject to section 735(4) (terms of redemption enforceable in a winding up).

688 Redeemed shares treated as cancelled

Where shares in a limited company are redeemed—

(a) the shares are treated as cancelled, and

(b) the amount of the company's issued share capital is diminished accordingly by the nominal value of the shares redeemed.

689 Notice to registrar of redemption

(1) If a limited company redeems any redeemable shares it must within one month after doing so give notice to the registrar, specifying the shares redeemed.

(2) The notice must be accompanied by a statement of capital.

(3) The statement of capital must state with respect to the company's share capital immediately following the redemption—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

[F797(ba) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and**]**

(c) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class, F798...

F798(d) . . . . . .

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

(a) the company, and

(b) every officer of the company who is in default.

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

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Textual Amendments

F797 S. 689(3)(ba) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 13(a)**; S.I. 2016/321, reg. 6(e)

F798 S. 689(3)(d) and word omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 13(b)**; S.I. 2016/321, reg. 6(e)

Commencement Information

I240 S. 689 wholly in force at 1.10.2009; s. 689 not in force at Royal Assent, see s. 1300; s. 689 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 689 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(l)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

CHAPTER 4

PURCHASE OF OWN SHARES

General provisions

690 Power of limited company to purchase own shares

(1) A limited company having a share capital may purchase its own shares (including any redeemable shares), subject to—

(a) the following provisions of this Chapter, and

(b) any restriction or prohibition in the company's articles.

(2) A limited company may not purchase its own shares if as a result of the purchase there would no longer be any issued shares of the company other than redeemable shares or shares held as treasury shares.

691 Payment for purchase of own shares

(1) A limited company may not purchase its own shares unless they are fully paid.

(2) Where a limited company purchases its own shares, the shares must be paid for on purchase.

[[F799](3) But subsection (2) does not apply in a case where a private limited company is purchasing shares for the purposes of or pursuant to an employees' share scheme.**]**

Textual Amendments

F799 S. 691(3) inserted (30.4.2013) by The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 3**

692 Financing of purchase of own shares

[[F800]**[**[F801](1) A private limited company may purchase its own shares out of capital in accordance with Chapter 5.

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(1ZA) If authorised to do so by its articles, a private limited company may purchase its own shares out of capital otherwise than in accordance with Chapter 5, up to an aggregate purchase price in a financial year of the lower of—

(a) £15,000, or

(b) the nominal value of 5% of its fully paid share capital as at the beginning of the financial year.**]**

(1A) If the share capital of the company is not denominated in sterling, the value in sterling of the share capital shall be calculated for the purposes of subsection **[**F802(1ZA)(b)**]** at an appropriate spot rate of exchange.

(1B) The rate must be a rate prevailing on a day specified in the resolution authorising the purchase of the shares.**]**

(2) **[**F803Subject to **[**F804subsections (1) and (1ZA)**]]**—

(a) a limited company may only purchase its own shares out of—

(i) distributable profits of the company, or

(ii) the proceeds of a fresh issue of shares made for the purpose of financing the purchase, and

(b) any premium payable on the purchase by a limited company of its own shares must be paid out of distributable profits of the company, subject to subsection (3).

(3) If the shares to be purchased were issued at a premium, any premium payable on their purchase by the company may be paid out of the proceeds of a fresh issue of shares made for the purpose of financing the purchase, up to an amount equal to—

(a) the aggregate of the premiums received by the company on the issue of the shares purchased, or

(b) the current amount of the company's share premium account (including any sum transferred to that account in respect of premiums on the new shares),

whichever is the less.

(4) The amount of the company's share premium account is reduced by a sum corresponding (or by sums in the aggregate corresponding) to the amount of any payment made under subsection (3).

(5) This section has effect subject to section 735(4) (terms of purchase enforceable in a winding up).

Textual Amendments

F800 S. 692(1)(1ZA) substituted for s. 692(1) (6.4.2015) by The Companies Act 2006 (Amendment of Part 18) Regulations 2015 (S.I. 2015/532), regs. 1(2), **3(2)**

F801 S. 692(1)-(1B) substituted (30.4.2013) for s. 692(1) by The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 4(2)**

F802 Words in s. 692(1A) substituted (6.4.2015) by The Companies Act 2006 (Amendment of Part 18) Regulations 2015 (S.I. 2015/532), regs. 1(2), **3(3)**

F803 Words in s. 692(2) substituted (30.4.2013) by The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 4(3)**

F804 Words in s. 692(2) substituted (6.4.2015) by The Companies Act 2006 (Amendment of Part 18) Regulations 2015 (S.I. 2015/532), regs. 1(2), **3(4)**

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Authority for purchase of own shares

693 Authority for purchase of own shares

(1) A limited company may only purchase its own shares—

(a) by an off-market purchase, **[**F805authorised in accordance with section 693A or**]** in pursuance of a contract approved in advance in accordance with section 694;

(b) by a market purchase, authorised in accordance with section 701.

(2) A purchase is "off-market" if the shares either—

(a) are purchased otherwise than on a recognised investment exchange, or

(b) are purchased on a recognised investment exchange but are not subject to a marketing arrangement on the exchange.

(3) For this purpose a company's shares are subject to a marketing arrangement on a recognised investment exchange if—

(a) they are listed under Part 6 of the Financial Services and Markets Act 2000 (c. 8), or

(b) the company has been afforded facilities for dealings in the shares to take place on the exchange—

(i) without prior permission for individual transactions from the authority governing that investment exchange, and

(ii) without limit as to the time during which those facilities are to be available.

(4) A purchase is a "market purchase" if it is made on a recognised investment exchange and is not an off-market purchase by virtue of subsection (2)(b).

(5) In this section "recognised investment exchange" means a recognised investment exchange (within the meaning of Part 18 of the Financial Services and Markets Act 2000) other than an overseas exchange (within the meaning of that Part).

Textual Amendments

F805 Words in s. 693(1) inserted (30.4.2013) by The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 6**

[F806**693A Authority for off-market purchase for the purposes of or pursuant to an employees' share scheme**

(1) A company may make an off-market purchase of its own shares for the purposes of or pursuant to an employees' share scheme if the purchase has first been authorised by a resolution of the company under this section.

(2) That authority—

(a) may be general or limited to the purchase of shares of a particular class or description, and

(b) may be unconditional or subject to conditions.

(3) The authority must—

(a) specify the maximum number of shares authorised to be acquired, and

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(b) determine both the maximum and minimum prices that may be paid for the shares.

(4) The authority may be varied, revoked or from time to time renewed by a resolution of the company.

(5) A resolution conferring, varying or renewing authority must specify a date on which it is to expire, which must not be later than five years after the date on which the resolution is passed.

(6) A company may make a purchase of its own shares after the expiry of the time limit specified if—

(a) the contract of purchase was concluded before the authority expired, and

(b) the terms of the authority permitted the company to make a contract of purchase that would or might be executed wholly or partly after its expiration.

(7) A resolution to confer or vary authority under this section may determine the maximum or minimum price for purchase by—

(a) specifying a particular sum, or

(b) providing a basis or formula for calculating the amount of the price (but without reference to any person's discretion or opinion).

(8) Chapter 3 of Part 3 (resolutions affecting a company's constitution) applies to a resolution under this section.**]**

Textual Amendments

F806 S. 693A inserted (30.4.2013) by The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 7**

Authority for off-market purchase

694 Authority for off-market purchase

(1) **[**F807Subject to section 693A,**]** A company may only make an off-market purchase of its own shares in pursuance of a contract approved prior to the purchase in accordance with this section.

(2) Either—

(a) the terms of the contract must be authorised by a F808. . . resolution of the company before the contract is entered into, or

(b) the contract must provide that no shares may be purchased in pursuance of the contract until its terms have been authorised by a F809. . . resolution of the company.

(3) The contract may be a contract, entered into by the company and relating to shares in the company, that does not amount to a contract to purchase the shares but under which the company may (subject to any conditions) become entitled or obliged to purchase the shares.

(4) The authority conferred by a resolution under this section may be varied, revoked or from time to time renewed by a F810. . . resolution of the company.

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(5) In the case of a public company a resolution conferring, varying or renewing authority must specify a date on which the authority is to expire, which must not be later than **[**[F811]five years**]** after the date on which the resolution is passed.

(6) A resolution conferring, varying, revoking or renewing authority under this section is subject to—

section 695 (exercise of voting rights), and

section 696 (disclosure of details of contract).

Textual Amendments

F807 Words in s. 694(1) inserted (30.4.2013) by The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 8**

F808 Word in s. 694(2)(a) omitted (30.4.2013) by virtue of The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 5(a)**

F809 Word in s. 694(2)(b) omitted (30.4.2013) by virtue of The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 5(a)**

F810 Word in s. 694(4) omitted (30.4.2013) by virtue of The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 5(a)**

F811 Words in s. 694(5) substituted (1.10.2009) by The Companies (Share Capital and Acquisition by Company of its Own Shares) Regulations 2009 (S.I. 2009/2022), **reg. 4(1)**

695 Resolution authorising off-market purchase: exercise of voting rights

(1) This section applies to a resolution to confer, vary, revoke or renew authority for the purposes of section 694 (authority for off-market purchase of own shares).

(2) Where the resolution is proposed as a written resolution, a member who holds shares to which the resolution relates is not an eligible member.

(3) Where the resolution is proposed at a meeting of the company, it is not effective if—

(a) any member of the company holding shares to which the resolution relates exercises the voting rights carried by any of those shares in voting on the resolution, and

(b) the resolution would not have been passed if he had not done so.

(4) For this purpose—

(a) a member who holds shares to which the resolution relates is regarded as exercising the voting rights carried by those shares not only if he votes in respect of them on a poll on the question whether the resolution shall be passed, but also if he votes on the resolution otherwise than on a poll;

(b) any member of the company may demand a poll on that question;

(c) a vote and a demand for a poll by a person as proxy for a member are the same respectively as a vote and a demand by the member.

696 Resolution authorising off-market purchase: disclosure of details of contract

(1) This section applies in relation to a resolution to confer, vary, revoke or renew authority for the purposes of section 694 (authority for off-market purchase of own shares).

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(2) A copy of the contract (if it is in writing) or a memorandum setting out its terms (if it is not) must be made available to members—

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both—

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(3) A memorandum of contract terms so made available must include the names of the members holding shares to which the contract relates.

(4) A copy of the contract so made available must have annexed to it a written memorandum specifying such of those names as do not appear in the contract itself.

(5) The resolution is not validly passed if the requirements of this section are not complied with

697 Variation of contract for off-market purchase

(1) A company may only agree to a variation of a contract authorised under section 694 (authority for off-market purchase) if the variation is approved in advance in accordance with this section.

(2) The terms of the variation must be authorised by a [F812]. . . resolution of the company before it is agreed to.

(3) That authority may be varied, revoked or from time to time renewed by a [F813]. . . resolution of the company.

(4) In the case of a public company a resolution conferring, varying or renewing authority must specify a date on which the authority is to expire, which must not be later than **[**[F814]five years**]** after the date on which the resolution is passed.

(5) A resolution conferring, varying, revoking or renewing authority under this section is subject to—

section 698 (exercise of voting rights), and

section 699 (disclosure of details of variation).

Textual Amendments

F812 Word in s. 697(2) omitted (30.4.2013) by virtue of The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 5(b)**

F813 Word in s. 697(3) omitted (30.4.2013) by virtue of The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 5(b)**

F814 Words in s. 697(4) substituted (1.10.2009) by The Companies (Share Capital and Acquisition by Company of its Own Shares) Regulations 2009 (S.I. 2009/2022), **reg. 4(1)**

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698 Resolution authorising variation: exercise of voting rights

(1) This section applies to a resolution to confer, vary, revoke or renew authority for the purposes of section 697 (variation of contract for off-market purchase of own shares).

(2) Where the resolution is proposed as a written resolution, a member who holds shares to which the resolution relates is not an eligible member.

(3) Where the resolution is proposed at a meeting of the company, it is not effective if—

(a) any member of the company holding shares to which the resolution relates exercises the voting rights carried by any of those shares in voting on the resolution, and

(b) the resolution would not have been passed if he had not done so.

(4) For this purpose—

(a) a member who holds shares to which the resolution relates is regarded as exercising the voting rights carried by those shares not only if he votes in respect of them on a poll on the question whether the resolution shall be passed, but also if he votes on the resolution otherwise than on a poll;

(b) any member of the company may demand a poll on that question;

(c) a vote and a demand for a poll by a person as proxy for a member are the same respectively as a vote and a demand by the member.

699 Resolution authorising variation: disclosure of details of variation

(1) This section applies in relation to a resolution under section 697 (variation of contract for off-market purchase of own shares).

(2) A copy of the proposed variation (if it is in writing) or a written memorandum giving details of the proposed variation (if it is not) must be made available to members—

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company both—

(i) at the company's registered office for not less than 15 days ending with the date of the meeting, and

(ii) at the meeting itself.

(3) There must also be made available as mentioned in subsection (2) a copy of the original contract or, as the case may be, a memorandum of its terms, together with any variations previously made.

(4) A memorandum of the proposed variation so made available must include the names of the members holding shares to which the variation relates.

(5) A copy of the proposed variation so made available must have annexed to it a written memorandum specifying such of those names as do not appear in the variation itself.

(6) The resolution is not validly passed if the requirements of this section are not complied with.

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700 Release of company's rights under contract for off-market purchase

(1) An agreement by a company to release its rights under a contract approved under section 694 (authorisation of off-market purchase) is void unless the terms of the release agreement are approved in advance in accordance with this section.

(2) The terms of the proposed agreement must be authorised by a [F815]. . . resolution of the company before the agreement is entered into.

(3) That authority may be varied, revoked or from time to time renewed by a [F816]. . . resolution of the company.

(4) In the case of a public company a resolution conferring, varying or renewing authority must specify a date on which the authority is to expire, which must not be later than **[**[F817]five years**]** after the date on which the resolution is passed.

(5) The provisions of—

section 698 (exercise of voting rights), and

section 699 (disclosure of details of variation),

apply to a resolution authorising a proposed release agreement as they apply to a resolution authorising a proposed variation.

Textual Amendments

F815 Word in s. 700(2) omitted (30.4.2013) by virtue of The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 5(c)**

F816 Word in s. 700(3) omitted (30.4.2013) by virtue of The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 5(c)**

F817 Words in s. 700(4) substituted (1.10.2009) by The Companies (Share Capital and Acquisition by Company of its Own Shares) Regulations 2009 (S.I. 2009/2022), **reg. 4(1)**

Authority for market purchase

701 Authority for market purchase

(1) A company may only make a market purchase of its own shares if the purchase has first been authorised by a resolution of the company.

(2) That authority—

(a) may be general or limited to the purchase of shares of a particular class or description, and

(b) may be unconditional or subject to conditions.

(3) The authority must—

(a) specify the maximum number of shares authorised to be acquired, and

(b) determine both the maximum and minimum prices that may be paid for the shares.

(4) The authority may be varied, revoked or from time to time renewed by a resolution of the company.

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(5) A resolution conferring, varying or renewing authority must specify a date on which it is to expire, which must not be later than **[**[F818]five years**]** after the date on which the resolution is passed.

(6) A company may make a purchase of its own shares after the expiry of the time limit specified if—

(a) the contract of purchase was concluded before the authority expired, and

(b) the terms of the authority permitted the company to make a contract of purchase that would or might be executed wholly or partly after its expiration.

(7) A resolution to confer or vary authority under this section may determine either or both the maximum and minimum price for purchase by—

(a) specifying a particular sum, or

(b) providing a basis or formula for calculating the amount of the price (but without reference to any person's discretion or opinion).

(8) Chapter 3 of Part 3 (resolutions affecting a company's constitution) applies to a resolution under this section.

Textual Amendments

F818 Words in s. 701(5) substituted (1.10.2009) by The Companies (Share Capital and Acquisition by Company of its Own Shares) Regulations 2009 (S.I. 2009/2022), **reg. 4(2)**

Supplementary provisions

702 Copy of contract or memorandum to be available for inspection

(1) This section applies where a company has entered into—

(a) a contract approved under section 694 (authorisation of contract for off-market purchase), or

(b) a contract for a purchase authorised under section 701 (authorisation of market purchase).

(2) The company must keep available for inspection—

(a) a copy of the contract, or

(b) if the contract is not in writing, a written memorandum setting out its terms.

(3) The copy or memorandum must be kept available for inspection from the conclusion of the contract until the end of the period of ten years beginning with—

(a) the date on which the purchase of all the shares in pursuance of the contract is completed, or

(b) the date on which the contract otherwise determines.

(4) The copy or memorandum must be kept available for inspection—

(a) at the company's registered office, or

(b) at a place specified in regulations under section 1136.

(5) The company must give notice to the registrar—

(a) of the place at which the copy or memorandum is kept available for inspection, and

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(b) of any change in that place,

unless it has at all times been kept at the company's registered office.

(6) Every copy or memorandum required to be kept under this section must be kept open to inspection without charge—

(a) by any member of the company, and

(b) in the case of a public company, by any other person.

(7) The provisions of this section apply to a variation of a contract as they apply to the original contract.

Modifications etc. (not altering text)

C1066 S. 702 modified (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **11(a)(viii)**

703 Enforcement of right to inspect copy or memorandum

(1) If default is made in complying with section 702(2), (3) or (4) or default is made for 14 days in complying with section 702(5), or an inspection required under section 702(6) is refused, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

(3) In the case of refusal of an inspection required under section 702(6) the court may by order compel an immediate inspection.

704 No assignment of company's right to purchase own shares

The rights of a company under a contract authorised under—

[F819(za) section 693A (authority for off-market purchase for the purposes of or pursuant to an employees' share scheme),**]**

(a) section 694 (authority for off-market purchase), or

(b) section 701 (authority for market purchase)

are not capable of being assigned.

Textual Amendments

F819 S. 704(za) inserted (30.4.2013) by The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 9**

705 Payments apart from purchase price to be made out of distributable profits

(1) A payment made by a company in consideration of—

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(a) acquiring any right with respect to the purchase of its own shares in pursuance of a contingent purchase contract approved under section 694 (authorisation of off-market purchase),

(b) the variation of any contract approved under that section, or

(c) the release of any of the company's obligations with respect to the purchase of any of its own shares under a contract—

(i) approved under section 694, or

(ii) authorised under section 701 (authorisation of market purchase),

must be made out of the company's distributable profits.

(2) If this requirement is not met in relation to a contract, then—

(a) in a case within subsection (1)(a), no purchase by the company of its own shares in pursuance of that contract may be made under this Chapter;

(b) in a case within subsection (1)(b), no such purchase following the variation may be made under this Chapter;

(c) in a case within subsection (1)(c), the purported release is void.

706 Treatment of shares purchased

Where a limited company makes a purchase of its own shares in accordance with this Chapter, then—

(a) if section 724 (treasury shares) applies, the shares may be held and dealt with in accordance with Chapter 6;

(b) if that section does not apply—

(i) the shares are treated as cancelled, and

(ii) the amount of the company's issued share capital is diminished accordingly by the nominal value of the shares cancelled.

707 Return to registrar of purchase of own shares

(1) Where a company purchases shares under this Chapter, it must deliver a return to the registrar within the period of 28 days beginning with the date on which the shares are delivered to it.

(2) The return must distinguish—

(a) shares in relation to which section 724 (treasury shares) applies and shares in relation to which that section does not apply, and

(b) shares in relation to which that section applies—

(i) that are cancelled forthwith (under section 729 (cancellation of treasury shares)), and

(ii) that are not so cancelled.

(3) The return must state, with respect to shares of each class purchased—

(a) the number and nominal value of the shares, and

(b) the date on which they were delivered to the company.

(4) In the case of a public company the return must also state—

(a) the aggregate amount paid by the company for the shares, and

(b) the maximum and minimum prices paid in respect of shares of each class purchased.

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(5) Particulars of shares delivered to the company on different dates and under different contracts may be included in a single return.

In such a case the amount required to be stated under subsection (4)(a) is the aggregate amount paid by the company for all the shares to which the return relates.

(6) If default is made in complying with this section an offence is committed by every officer of the company who is in default.

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

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

(b) on summary conviction to a fine not exceeding the statutory maximum and, for continued contravention, a daily default fine not exceeding **[**F820one-tenth of the statutory maximum**][**F820one-tenth of the greater of £5,000 or the amount corresponding to level 4 on the standard scale for summary offences**]**.

Textual Amendments

F820 Words in s. 707(7)(b) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(17)** (with reg. 5(1))

708 Notice to registrar of cancellation of shares

(1) If on the purchase by a company of any of its own shares in accordance with this Part—

(a) section 724 (treasury shares) does not apply (so that the shares are treated as cancelled), or

(b) that section applies but the shares are cancelled forthwith (under section 729 (cancellation of treasury shares)),

the company must give notice of cancellation to the registrar, within the period of 28 days beginning with the date on which the shares are delivered to it, specifying the shares cancelled.

(2) The notice must be accompanied by a statement of capital **[**F821, except where the statement of capital would be the same as a statement of capital that is required to be delivered to the registrar under section 720B(1)**]**.

(3) The statement of capital must state with respect to the company's share capital immediately following the cancellation—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

[F822(ba) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and**]**

(c) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class, F823...

F823(d) . . . . . .

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

(a) the company, and

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(b) every officer of the company who is in default.

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

Textual Amendments

F821 Words in s. 708(2) inserted (6.4.2015) by The Companies Act 2006 (Amendment of Part 18) Regulations 2015 (S.I. 2015/532), regs. 1(2), **4**

F822 S. 708(3)(ba) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 14(a)**; S.I. 2016/321, reg. 6(e)

F823 S. 708(3)(d) and word omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 14(b)**; S.I. 2016/321, reg. 6(e)

Commencement Information

I241 S. 708 wholly in force at 1.10.2009; s. 708 not in force at Royal Assent, see s. 1300; s. 708 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 708 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(l)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

CHAPTER 5

REDEMPTION OR PURCHASE BY PRIVATE COMPANY OUT OF CAPITAL

Introductory

709 Power of private limited company to redeem or purchase own shares out of capital

(1) A private limited company may in accordance with this Chapter, but subject to any restriction or prohibition in the company's articles, make a payment in respect of the redemption or purchase of its own shares otherwise than out of distributable profits or the proceeds of a fresh issue of shares.

(2) References below in this Chapter to payment out of capital are to any payment so made, whether or not it would be regarded apart from this section as a payment out of capital.

[F824(3) This Chapter is subject to section 692(1ZA) (purchase of own shares up to annual limit).**]**

Textual Amendments

F824 S. 709(3) added (6.4.2015) by The Companies Act 2006 (Amendment of Part 18) Regulations 2015 (S.I. 2015/532), regs. 1(2), **5**

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The permissible capital payment

710 The permissible capital payment

(1) The payment that may, in accordance with this Chapter, be made by a company out of capital in respect of the redemption or purchase of its own shares is such amount as, after applying for that purpose—

(a) any available profits of the company, and

(b) the proceeds of any fresh issue of shares made for the purposes of the redemption or purchase,

is required to meet the price of redemption or purchase.

(2) That is referred to below in this Chapter as "the permissible capital payment" for the shares.

711 Available profits

(1) For the purposes of this Chapter the available profits of the company, in relation to the redemption or purchase of any shares, are the profits of the company that are available for distribution (within the meaning of Part 23).

(2) But the question whether a company has any profits so available, and the amount of any such profits, shall be determined in accordance with section 712 instead of in accordance with sections 836 to 842 in that Part.

712 Determination of available profits

(1) The available profits of the company are determined as follows.

(2) First, determine the profits of the company by reference to the following items as stated in the relevant accounts—

(a) profits, losses, assets and liabilities,

(b) provisions of the following kinds—

(i) where the relevant accounts are Companies Act accounts, provisions of a kind specified for the purposes of this subsection by regulations under section 396;

(ii) where the relevant accounts are IAS accounts, provisions of any kind;

(c) share capital and reserves (including undistributable reserves).

(3) Second, reduce the amount so determined by the amount of—

(a) any distribution lawfully made by the company, and

(b) any other relevant payment lawfully made by the company out of distributable profits,

after the date of the relevant accounts and before the end of the relevant period.

(4) For this purpose "other relevant payment lawfully made" includes—

(a) financial assistance lawfully given out of distributable profits in accordance with Chapter 2,

(b) payments lawfully made out of distributable profits in respect of the purchase by the company of any shares in the company, and

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(c) payments of any description specified in section 705 (payments other than purchase price to be made out of distributable profits) lawfully made by the company.

(5) The resulting figure is the amount of available profits.

(6) For the purposes of this section "the relevant accounts" are any accounts that—

(a) are prepared as at a date within the relevant period, and

(b) are such as to enable a reasonable judgment to be made as to the amounts of the items mentioned in subsection (2).

(7) In this section "the relevant period" means the period of three months ending with the date on which **[**F825the solvency statement is made in accordance with section 720A or**]** the directors' statement is made in accordance with section 714.

Textual Amendments

F825 Words in s. 712(7) inserted (30.4.2013) by The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 10**

Requirements for payment out of capital

713 Requirements for payment out of capital

(1) A payment out of capital by a private company for the redemption or purchase of its own shares is not lawful unless the requirements of the following sections are met—

section 714 (directors' statement and auditor's report);

section 716 (approval by special resolution);

section 719 (public notice of proposed payment);

section 720 (directors' statement and auditor's report to be available for inspection).

(2) This is subject **[**F826to section 720A and**]** to any order of the court under section 721 (power of court to extend period for compliance on application by persons objecting to payment).

Textual Amendments

F826 Words in s. 713(2) inserted (30.4.2013) by The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 11**

714 Directors' statement and auditor's report

(1) The company's directors must make a statement in accordance with this section.

(2) The statement must specify the amount of the permissible capital payment for the shares in question.

(3) It must state that, having made full inquiry into the affairs and prospects of the company, the directors have formed the opinion—

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(a) as regards its initial situation immediately following the date on which the payment out of capital is proposed to be made, that there will be no grounds on which the company could then be found unable to pay its debts, and

(b) as regards its prospects for the year immediately following that date, that having regard to—

(i) their intentions with respect to the management of the company's business during that year, and

(ii) the amount and character of the financial resources that will in their view be available to the company during that year,

the company will be able to continue to carry on business as a going concern (and will accordingly be able to pay its debts as they fall due) throughout that year.

(4) In forming their opinion for the purposes of subsection (3)(a), the directors must take into account all of the company's liabilities (including any contingent or prospective liabilities).

(5) The directors' statement must be in the prescribed form and must contain such information with respect to the nature of the company's business as may be prescribed.

(6) It must in addition have annexed to it a report addressed to the directors by the company's auditor stating that—

(a) he has inquired into the company's state of affairs,

(b) the amount specified in the statement as the permissible capital payment for the shares in question is in his view properly determined in accordance with sections 710 to 712, and

(c) he is not aware of anything to indicate that the opinion expressed by the directors in their statement as to any of the matters mentioned in subsection (3) above is unreasonable in all the circumstances.

Commencement Information

I242 S. 714 wholly in force at 1.10.2009; s. 714 not in force at Royal Assent, see s. 1300; s. 714 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 714 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(l)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

715 Directors' statement: offence if no reasonable grounds for opinion

(1) If the directors make a statement under section 714 without having reasonable grounds for the opinion expressed in it, an offence is committed by every director who is in default.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or a fine not exceeding the statutory maximum (or both);

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

716 Payment to be approved by special resolution

(1) The payment out of capital must be approved by a special resolution of the company.

(2) The resolution must be passed on, or within the week immediately following, the date on which the directors make the statement required by section 714.

(3) A resolution under this section is subject to—

section 717 (exercise of voting rights), and

section 718 (disclosure of directors' statement and auditors' report).

717 Resolution authorising payment: exercise of voting rights

(1) This section applies to a resolution under section 716 (authority for payment out of capital for redemption or purchase of own shares).

(2) Where the resolution is proposed as a written resolution, a member who holds shares to which the resolution relates is not an eligible member.

(3) Where the resolution is proposed at a meeting of the company, it is not effective if—

(a) any member of the company holding shares to which the resolution relates exercises the voting rights carried by any of those shares in voting on the resolution, and

(b) the resolution would not have been passed if he had not done so.

(4) For this purpose—

(a) a member who holds shares to which the resolution relates is regarded as exercising the voting rights carried by those shares not only if he votes in respect of them on a poll on the question whether the resolution shall be passed, but also if he votes on the resolution otherwise than on a poll;

(b) any member of the company may demand a poll on that question;

(c) a vote and a demand for a poll by a person as proxy for a member are the same respectively as a vote and a demand by the member.

718 Resolution authorising payment: disclosure of directors' statement and auditor's report

(1) This section applies to a resolution under section 716 (resolution authorising payment out of capital for redemption or purchase of own shares).

(2) A copy of the directors' statement and auditor's report under section 714 must be made available to members—

(a) in the case of a written resolution, by being sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;

(b) in the case of a resolution at a meeting, by being made available for inspection by members of the company at the meeting.

(3) The resolution is ineffective if this requirement is not complied with.

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719 Public notice of proposed payment

(1) Within the week immediately following the date of the resolution under section 716 the company must cause to be published in the Gazette a notice—

(a) stating that the company has approved a payment out of capital for the purpose of acquiring its own shares by redemption or purchase or both (as the case may be),

(b) specifying—

(i) the amount of the permissible capital payment for the shares in question, and

(ii) the date of the resolution,

(c) stating where the directors' statement and auditor's report required by section 714 are available for inspection, and

(d) stating that any creditor of the company may at any time within the five weeks immediately following the date of the resolution apply to the court under section 721 for an order preventing the payment.

(2) Within the week immediately following the date of the resolution the company must also either—

(a) cause a notice to the same effect as that required by subsection (1) to be published in an appropriate national newspaper, or

(b) give notice in writing to that effect to each of its creditors.

(3) "An appropriate national newspaper" means a newspaper circulating throughout the part of the United Kingdom in which the company is registered.

(4) Not later than the day on which the company—

(a) first publishes the notice required by subsection (1), or

(b) if earlier, first publishes or gives the notice required by subsection (2),

the company must deliver to the registrar a copy of the directors' statement and auditor's report required by section 714.

720 Directors' statement and auditor's report to be available for inspection

(1) The directors' statement and auditor's report must be kept available for inspection throughout the period—

(a) beginning with the day on which the company—

(i) first publishes the notice required by section 719(1), or

(ii) if earlier, first publishes or gives the notice required by section 719(2), and

(b) ending five weeks after the date of the resolution for payment out of capital.

(2) They must be kept available for inspection—

(a) at the company's registered office, or

(b) at a place specified in regulations under section 1136.

(3) The company must give notice to the registrar—

(a) of the place at which the statement and report are kept available for inspection, and

(b) of any change in that place,

unless they have at all times been kept at the company's registered office.

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(4) They must be open to the inspection of any member or creditor of the company without charge.

(5) If default is made for 14 days in complying with subsection (3), or an inspection under subsection (4) is refused, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

(7) In the case of a refusal of an inspection required by subsection (4), the court may by order compel an immediate inspection.

Modifications etc. (not altering text)

C1067 S. 720 modified (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **11(a)(ix)**

[F827 Requirements for payment out of capital: employees' share schemes

Textual Amendments

F827 Ss. 720A, 720B and cross-heading inserted (30.4.2013) by The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 12**

720A Reduced requirements for payment out of capital for purchase of own shares for the purposes of or pursuant to an employees' share scheme

(1) Section 713(1) does not apply to the purchase out of capital by a private company of its own shares for the purposes of or pursuant to an employees' share scheme when approved by special resolution supported by a solvency statement.

(2) For the purposes of this section a resolution is supported by a solvency statement if—

(a) the directors of the company make a solvency statement (see section 643) not more than 15 days before the date on which the resolution is passed, and

(b) the resolution and solvency statement are registered in accordance with section 720B.

(3) Where the resolution is proposed as a written resolution, a copy of the solvency statement must be sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to the member.

(4) Where the resolution is proposed at a general meeting, a copy of the solvency statement must be made available for inspection by members of the company throughout that meeting.

(5) The validity of a resolution is not affected by a failure to comply with subsection (3) or (4).

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(6) Section 717 (resolution authorising payment: exercise of voting rights) applies to a resolution under this section as it applies to a resolution under section 716.

720B Registration of resolution and supporting documents for purchase of own shares for the purposes of or pursuant to an employees' share scheme

(1) Within 15 days after the passing of the resolution for a payment out of capital by a private company for the purchase of its own shares for the purposes of or pursuant to an employees' share scheme the company must deliver to the registrar–

(a) a copy of the solvency statement,

(b) a copy of the resolution, and

(c) a statement of capital.

(2) The statement of capital must state with respect to the company's share capital as reduced by the resolution—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

[F828(ba) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and**]**

(c) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class, F829...

F829(d) . . . . . .

(3) The registrar must register the documents delivered to him under subsection (1) on receipt.

(4) The resolution does not take effect until those documents are registered.

(5) The company must also deliver to the registrar, within 15 days after the resolution is passed, a statement by the directors confirming that the solvency statement was—

(a) made not more than 15 days before the date on which the resolution was passed, and

(b) provided to members in accordance with section 720A(3) or (4).

(6) The validity of a resolution is not affected by—

(a) a failure to deliver the documents required to be delivered to the registrar under subsection (1) within the time specified in that subsection, or

(b) a failure to comply with subsection (5).

(7) If the company delivers to the registrar a solvency statement that was not provided to members in accordance with section 720A(3) or (4), an offence is committed by every officer of the company who is in default.

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

(a) the company, and

(b) every officer of the company who is in default.

(9) A person guilty of an offence under subsection (7) or (8) is liable–

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

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

Textual Amendments

F828 S. 720B(2)(ba) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 15(a)**; S.I. 2016/321, reg. 6(e)

F829 S. 720B(2)(d) and word omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 15(b)**; S.I. 2016/321, reg. 6(e)

Objection to payment by members or creditors

721 Application to court to cancel resolution

(1) Where a private company passes a special resolution approving a payment out of capital for the redemption or purchase of any of its shares—

(a) any member of the company (other than one who consented to or voted in favour of the resolution), and

(b) any creditor of the company,

may apply to the court for the cancellation of the resolution.

(2) The application—

(a) must be made within five weeks after the passing of the resolution, and

(b) may be made on behalf of the persons entitled to make it by such one or more of their number as they may appoint in writing for the purpose.

(3) On an application under this section the court may if it thinks fit—

(a) adjourn the proceedings in order that an arrangement may be made to the satisfaction of the court—

(i) for the purchase of the interests of dissentient members, or

(ii) for the protection of dissentient creditors, and

(b) give such directions and make such orders as it thinks expedient for facilitating or carrying into effect any such arrangement.

(4) Subject to that, the court must make an order either cancelling or confirming the resolution, and may do so on such terms and conditions as it thinks fit.

(5) If the court confirms the resolution, it may by order alter or extend any date or period of time specified—

(a) in the resolution, or

(b) in any provision of this Chapter applying to the redemption or purchase to which the resolution relates.

(6) The court's order may, if the court thinks fit—

(a) provide for the purchase by the company of the shares of any of its members and for the reduction accordingly of the company's capital, and

(b) make any alteration in the company's articles that may be required in consequence of that provision.

(7) The court's order may, if the court thinks fit, require the company not to make any, or any specified, amendments of its articles without the leave of the court.

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722 Notice to registrar of court application or order

(1) On making an application under section 721 (application to court to cancel resolution) the applicants, or the person making the application on their behalf, must immediately give notice to the registrar.

This is without prejudice to any provision of rules of court as to service of notice of the application.

(2) On being served with notice of any such application, the company must immediately give notice to the registrar.

(3) Within 15 days of the making of the court's order on the application, or such longer period as the court may at any time direct, the company must deliver to the registrar a copy of the order.

(4) If a company fails to comply with subsection (2) or (3) an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

Supplementary provisions

723 [F830Time when payment out of capital to be made or shares to be surrendered]

(1) The payment out of capital [F831, if made in accordance with a resolution under section 716] must be made—

(a) no earlier than five weeks after the date on which the resolution under section 716 is passed, and

(b) no more than seven weeks after that date.

[F832(1A) Shares to be purchased in accordance with a resolution under section 720A must be surrendered—

(a) no earlier than five weeks after the date on which the resolution under section 720A is passed, and

(b) no later than seven weeks after that date.]

(2) This is subject to any exercise of the court's powers under section 721(5) (power to alter or extend time where resolution confirmed after objection).

Textual Amendments

F830 S. 723 heading substituted (6.4.2015) by The Companies Act 2006 (Amendment of Part 18) Regulations 2015 (S.I. 2015/532), regs. 1(2), **6(a)**

F831 Words in s. 723(1) inserted (30.4.2013) by The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 13(2)**

F832 S. 723(1A) substituted (6.4.2015) by The Companies Act 2006 (Amendment of Part 18) Regulations 2015 (S.I. 2015/532), regs. 1(2), **6(b)**

Status: *Point in time view as at 31/12/2020.*
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CHAPTER 6

TREASURY SHARES

[F833 724 Treasury shares

(1) This section applies where–

(a) a limited company makes a purchase of its own shares in accordance with Chapter 4, and

[F834 (b) the purchase is made out of distributable profits.]

(2) F835 . . . . . .

(3) Where this section applies the company may—

(a) hold the shares (or any of them), or

(b) deal with any of them, at any time, in accordance with section 727 or 729.

(4) Where shares are held by the company, the company must be entered in its register of members [F836 (or, as the case may be, the company's name must be delivered to the registrar under Chapter 2A of Part 8)] as the member holding the shares.

(5) In the Companies Acts references to a company holding shares as treasury shares are to the company holding shares that—

(a) were (or are treated as having been) purchased by it in circumstances in which this section applies, and

(b) have been held by the company continuously since they were so purchased (or treated as purchased).]

Textual Amendments

F833 S. 724(1) substituted (30.4.2013) by The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 14(2)**

F834 S. 724(1)(b) substituted (6.4.2015) by The Companies Act 2006 (Amendment of Part 18) Regulations 2015 (S.I. 2015/532), regs. 1(2), **7**

F835 S. 724(2) omitted (30.4.2013) by virtue of The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 14(3)**

F836 Words in s. 724(4) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 25**; S.I. 2016/321, reg. 6(c)

725 Treasury shares: maximum holdings

F837 . . . . . .

Textual Amendments

F837 S. 725 repealed (1.10.2009) by The Companies (Share Capital and Acquisition by Company of its Own Shares) Regulations 2009 (S.I. 2009/2022), **reg. 5(1)** (with reg. 5(2)(3))

726 Treasury shares: exercise of rights

(1) This section applies where shares are held by a company as treasury shares.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The company must not exercise any right in respect of the treasury shares, and any purported exercise of such a right is void.

This applies, in particular, to any right to attend or vote at meetings.

(3) No dividend may be paid, and no other distribution (whether in cash or otherwise) of the company's assets (including any distribution of assets to members on a winding up) may be made to the company, in respect of the treasury shares.

(4) Nothing in this section prevents—

(a) an allotment of shares as fully paid bonus shares in respect of the treasury shares, or

(b) the payment of any amount payable on the redemption of the treasury shares (if they are redeemable shares).

(5) Shares allotted as fully paid bonus shares in respect of the treasury shares are treated as if purchased by the company, at the time they were allotted, in circumstances in which section 724(1) (treasury shares) applied.

727 Treasury shares: disposal

(1) Where shares are held as treasury shares, the company may at any time—

(a) sell the shares (or any of them) for a cash consideration, or

(b) transfer the shares (or any of them) for the purposes of or pursuant to an employees' share scheme.

(2) In subsection (1)(a) "cash consideration" means—

(a) cash received by the company, or

(b) a cheque received by the company in good faith that the directors have no reason for suspecting will not be paid, or

(c) a release of a liability of the company for a liquidated sum, or

(d) an undertaking to pay cash to the company on or before a date not more than 90 days after the date on which the company agrees to sell the shares, or

(e) payment by any other means giving rise to a present or future entitlement (of the company or a person acting on the company's behalf) to a payment, or credit equivalent to payment, in cash.

For this purpose "cash" includes foreign currency.

(3) The Secretary of State may by order provide that particular means of payment specified in the order are to be regarded as falling within subsection (2)(e).

(4) If the company receives a notice under section 979 (takeover offers: right of offeror to buy out minority shareholders) that a person desires to acquire shares held by the company as treasury shares, the company must not sell or transfer the shares to which the notice relates except to that person.

(5) An order under this section is subject to negative resolution procedure.

Commencement Information

I243 S. 727 wholly in force at 1.10.2009; s. 727 not in force at Royal Assent, see s. 1300; s. 727 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6,

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8, Sch. 5); s. 727 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(l)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

728 Treasury shares: notice of disposal

(1) Where shares held by a company as treasury shares—

(a) are sold, or

(b) are transferred for the purposes of an employees' share scheme,

the company must deliver a return to the registrar not later than 28 days after the shares are disposed of.

(2) The return must state with respect to shares of each class disposed of—

(a) the number and nominal value of the shares, and

(b) the date on which they were disposed of.

(3) Particulars of shares disposed of on different dates may be included in a single return.

(4) If default is made in complying with this section an offence is committed by every officer of the company who is in default.

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

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

(b) on summary conviction, to a fine not exceeding the statutory maximum and, for continued contravention, a daily default fine not exceeding **[**F838one-tenth of the statutory maximum**][**F838one-tenth of the greater of £5,000 or the amount corresponding to level 4 on the standard scale for summary offences**]**.

Textual Amendments

F838 Words in s. 728(5)(b) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(18)** (with reg. 5(1))

729 Treasury shares: cancellation

(1) Where shares are held as treasury shares, the company may at any time cancel the shares (or any of them).

(2) F839 . . . . . .

(3) F839 . . . . . .

(4) If company cancels shares held as treasury shares, the amount of the company's share capital is reduced accordingly by the nominal amount of the shares cancelled.

(5) The directors may take any steps required to enable the company to cancel its shares under this section without complying with the provisions of Chapter 10 of Part 17 (reduction of share capital).

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Textual Amendments

F839 S. 729(2)(3) omitted (30.4.2013) by virtue of The Companies Act 2006 (Amendment of Part 18) Regulations 2013 (S.I. 2013/999), **reg. 15**

730 Treasury shares: notice of cancellation

(1) Where shares held by a company as treasury shares are cancelled, the company must deliver a return to the registrar not later than 28 days after the shares are cancelled.

This does not apply to shares that are cancelled forthwith on their acquisition by the company (see section 708).

(2) The return must state with respect to shares of each class cancelled—

(a) the number and nominal value of the shares, and

(b) the date on which they were cancelled.

(3) Particulars of shares cancelled on different dates may be included in a single return.

(4) The notice must be accompanied by a statement of capital.

(5) The statement of capital must state with respect to the company's share capital immediately following the cancellation—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

[F840(ba) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and**]**

(c) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class, F841...

F841(d) . . . . . .

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

(a) the company, and

(b) every officer of the company who is in default.

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

Textual Amendments

F840 S. 730(5)(ba) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 16(a)**; S.I. 2016/321, reg. 6(e)

F841 S. 730(5)(d) and word omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 6 para. 16(b)**; S.I. 2016/321, reg. 6(e)

Commencement Information

I244 S. 730 wholly in force at 1.10.2009; s. 730 not in force at Royal Assent, see s. 1300; s. 730 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6,

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8, Sch. 5); s. 730 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(l)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

731 Treasury shares: treatment of proceeds of sale

(1) Where shares held as treasury shares are sold, the proceeds of sale must be dealt with in accordance with this section.

(2) If the proceeds of sale are equal to or less than the purchase price paid by the company for the shares, the proceeds are treated for the purposes of Part 23 (distributions) as a realised profit of the company.

(3) If the proceeds of sale exceed the purchase price paid by the company—

(a) an amount equal to the purchase price paid is treated as a realised profit of the company for the purposes of that Part, and

(b) the excess must be transferred to the company's share premium account.

(4) For the purposes of this section—

(a) the purchase price paid by the company must be determined by the application of a weighted average price method, and

(b) if the shares were allotted to the company as fully paid bonus shares, the purchase price paid for them is treated as nil.

732 Treasury shares: offences

(1) If a company contravenes any of the provisions of this Chapter (except section 730 (notice of cancellation)), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

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

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

CHAPTER 7

SUPPLEMENTARY PROVISIONS

733 The capital redemption reserve

(1) In the following circumstances a company must transfer amounts to a reserve, called the "capital redemption reserve".

(2) Where under this Part shares of a limited company are redeemed or purchased wholly out of the company's profits, the amount by which the company's issued share capital is diminished in accordance with—

(a) section 688(b) (on the cancellation of shares redeemed), or

(b) section 706(b)(ii) (on the cancellation of shares purchased),

must be transferred to the capital redemption reserve.

(3) If—

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(a) the shares are redeemed or purchased wholly or partly out of the proceeds of a fresh issue, and

(b) the aggregate amount of the proceeds is less than the aggregate nominal value of the shares redeemed or purchased,

the amount of the difference must be transferred to the capital redemption reserve.

This does not apply in the case of a private company if, in addition to the proceeds of the fresh issue, the company applies a payment out of capital under Chapter 5 **[**F842or under section 692(1ZA)**]** in making the redemption or purchase.

(4) The amount by which a company's share capital is diminished in accordance with section 729(4) (on the cancellation of shares held as treasury shares) must be transferred to the capital redemption reserve.

(5) The company may use the capital redemption reserve to pay up new shares to be allotted to members as fully paid bonus shares.

(6) Subject to that, the provisions of the Companies Acts relating to the reduction of a company's share capital apply as if the capital redemption reserve were part of its paid up share capital.

Textual Amendments

F842 Words in s. 733(3) inserted (6.4.2015) by The Companies Act 2006 (Amendment of Part 18) Regulations 2015 (S.I. 2015/532), regs. 1(2), **8**

Commencement Information

I245 S. 733 wholly in force at 1.10.2009; s. 733 not in force at Royal Assent see s. 1300; s. 733(5)(6) in force for specified purposes at 1.10.2008 by S.I. 2008/1886, **art. 2** (with arts 6, 7); s. 733 in force otherwise at 1.10.2009 by S.I. 2008/2860, **art. 3(l)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

734 Accounting consequences of payment out of capital

(1) This section applies where a payment out of capital is made in accordance with Chapter 5 (redemption or purchase of own shares by private company out of capital) **[**F843or section 692(1ZA)**]**.

[F844(1A) In relation to a payment under section 692(1ZA) references to the permissible capital payment are to the purchase price of the shares or (if less) the part of it met out of the payment under section 692(1ZA) and any proceeds of a fresh issue used to make the purchase.**]**

(2) If the permissible capital payment is less than the nominal amount of the shares redeemed or purchased, the amount of the difference must be transferred to the company's capital redemption reserve.

(3) If the permissible capital payment is greater than the nominal amount of the shares redeemed or purchased—

(a) the amount of any capital redemption reserve, share premium account or fully paid share capital of the company, and

(b) any amount representing unrealised profits of the company for the time being standing to the credit of any revaluation reserve maintained by the company,

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may be reduced by a sum not exceeding (or by sums not in total exceeding) the amount by which the permissible capital payment exceeds the nominal amount of the shares.

(4) Where the proceeds of a fresh issue are applied by the company in making a redemption or purchase of its own shares in addition to a payment out of capital under **[**[F845]Chapter 5**]**, the references in subsections (2) and (3) to the permissible capital payment are to be read as referring to the aggregate of that payment and those proceeds.

Textual Amendments

F843 Words in s. 734(1) inserted (6.4.2015) by The Companies Act 2006 (Amendment of Part 18) Regulations 2015 (S.I. 2015/532), regs. 1(2), **9(2)**

F844 S. 734(1A) inserted (6.4.2015) by The Companies Act 2006 (Amendment of Part 18) Regulations 2015 (S.I. 2015/532), regs. 1(2), **9(3)**

F845 Words in s. 734(4) substituted (6.4.2015) by The Companies Act 2006 (Amendment of Part 18) Regulations 2015 (S.I. 2015/532), regs. 1(2), **9(4)**

735 Effect of company's failure to redeem or purchase

(1) This section applies where a company—

(a) issues shares on terms that they are or are liable to be redeemed, or

(b) agrees to purchase any of its shares.

(2) The company is not liable in damages in respect of any failure on its part to redeem or purchase any of the shares.

This is without prejudice to any right of the holder of the shares other than his right to sue the company for damages in respect of its failure.

(3) The court shall not grant an order for specific performance of the terms of redemption or purchase if the company shows that it is unable to meet the costs of redeeming or purchasing the shares in question out of distributable profits.

(4) If the company is wound up and at the commencement of the winding up any of the shares have not been redeemed or purchased, the terms of redemption or purchase may be enforced against the company.

When shares are redeemed or purchased under this subsection, they are treated as cancelled.

(5) Subsection (4) does not apply if—

(a) the terms provided for the redemption or purchase to take place at a date later than that of the commencement of the winding up, or

(b) during the period—

(i) beginning with the date on which the redemption or purchase was to have taken place, and

(ii) ending with the commencement of the winding up,

the company could not at any time have lawfully made a distribution equal in value to the price at which the shares were to have been redeemed or purchased.

(6) There shall be paid in priority to any amount that the company is liable under subsection (4) to pay in respect of any shares—

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(a) all other debts and liabilities of the company (other than any due to members in their character as such), and

(b) if other shares carry rights (whether as to capital or as to income) that are preferred to the rights as to capital attaching to the first-mentioned shares, any amount due in satisfaction of those preferred rights.

Subject to that, any such amount shall be paid in priority to any amounts due to members in satisfaction of their rights (whether as to capital or income) as members.

736 Meaning of "distributable profits"

In this Part (except in Chapter 2 (financial assistance): see section 683) "distributable profits", in relation to the making of any payment by a company, means profits out of which the company could lawfully make a distribution (within the meaning given by section 830) equal in value to the payment.

737 General power to make further provision by regulations

(1) The Secretary of State may by regulations modify the provisions of this Part.

(2) The regulations may—

(a) amend or repeal any of the provisions of this Part, or

(b) make such other provision as appears to the Secretary of State appropriate in place of any of the provisions of this Part.

(3) Regulations under this section may make consequential amendments or repeals in other provisions of this Act, or in other enactments.

(4) Regulations under this section are subject to affirmative resolution procedure.

Commencement Information

I246 S. 737 wholly in force at 1.10.2009; s. 737 not in force at Royal Assent, see s. 1300; s. 737 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 737 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(l)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

PART 19

DEBENTURES

Modifications etc. (not altering text)

C1068 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

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General provisions

738 Meaning of "debenture"

In the Companies Acts"debenture" includes debenture stock, bonds and any other securities of a company, whether or not constituting a charge on the assets of the company.

Modifications etc. (not altering text)
C1069 Ss. 738-742 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **20**

739 Perpetual debentures

(1) A condition contained in debentures, or in a deed for securing debentures, is not invalid by reason only that the debentures are made—

(a) irredeemable, or

(b) redeemable only—

(i) on the happening of a contingency (however remote), or

(ii) on the expiration of a period (however long),

any rule of equity to the contrary notwithstanding.

(2) Subsection (1) applies to debentures whenever issued and to deeds whenever executed.

Modifications etc. (not altering text)
C1070 Ss. 738-742 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **20**

740 Enforcement of contract to subscribe for debentures

A contract with a company to take up and pay for debentures of the company may be enforced by an order for specific performance.

Modifications etc. (not altering text)
C1071 Ss. 738-742 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **20**

741 Registration of allotment of debentures

(1) A company must register an allotment of debentures as soon as practicable and in any event within two months after the date of the allotment.

(2) If a company fails to comply with this section, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

(4) For the duties of the company as to the issue of the debentures, or certificates of debenture stock, see Part 21 (certification and transfer of securities)

Modifications etc. (not altering text)
C1072 Ss. 738-742 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **20**

742 Debentures to bearer (Scotland)

Notwithstanding anything in the statute of the Scots Parliament of 1696, chapter 25, debentures to bearer issued in Scotland are valid and binding according to their terms.

Modifications etc. (not altering text)
C1073 Ss. 738-742 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **20**

Register of debenture holders

743 Register of debenture holders

(1) Any register of debenture holders of a company that is kept by the company must be kept available for inspection—

(a) at the company's registered office, or

(b) at a place specified in regulations under section 1136.

(2) A company must give notice to the registrar of the place where any such register is kept available for inspection and of any change in that place.

(3) No such notice is required if the register has, at all times since it came into existence, been kept available for inspection at the company's registered office.

(4) If a company makes default for 14 days in complying with subsection (2), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

(6) References in this section to a register of debenture holders include a duplicate—

(a) of a register of debenture holders that is kept outside the United Kingdom, or

(b) of any part of such a register.

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Modifications etc. (not altering text)

C1074 Ss. 743-748 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **21**

C1075 S. 743 modified (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **11(a)(x)**

744 Register of debenture holders: right to inspect and require copy

(1) Every register of debenture holders of a company must, except when duly closed, be open to the inspection—

(a) of the registered holder of any such debentures, or any holder of shares in the company, without charge, and

(b) of any other person on payment of such fee as may be prescribed.

(2) Any person may require a copy of the register, or any part of it, on payment of such fee as may be prescribed.

(3) A person seeking to exercise either of the rights conferred by this section must make a request to the company to that effect.

(4) The request must contain the following information—

(a) in the case of an individual, his name and address;

(b) in the case of an organisation, the name and address of an individual responsible for making the request on behalf of the organisation;

(c) the purpose for which the information is to be used; and

(d) whether the information will be disclosed to any other person, and if so—

(i) where that person is an individual, his name and address,

(ii) where that person is an organisation, the name and address of an individual responsible for receiving the information on its behalf, and

(iii) the purpose for which the information is to be used by that person.

(5) For the purposes of this section a register is "duly closed" if it is closed in accordance with provision contained—

(a) in the articles or in the debentures,

(b) in the case of debenture stock in the stock certificates, or

(c) in the trust deed or other document securing the debentures or debenture stock.

The total period for which a register is closed in any year must not exceed 30 days.

(6) References in this section to a register of debenture holders include a duplicate—

(a) of a register of debenture holders that is kept outside the United Kingdom, or

(b) of any part of such a register.

Modifications etc. (not altering text)

C1076 Ss. 743-748 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **21**

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Commencement Information

I247 S. 744 wholly in force at 6.4.2008; s. 744 not in force at Royal Assent, see s. 1300; s. 744 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)); s. 744 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(g)** (with savings in arts. 7, 12, subject to transitional adaptations in Sch. 1 para. 12 and with savings in Sch. 4 paras. 20-23)

745 Register of debenture holders: response to request for inspection or copy

(1) Where a company receives a request under section 744 (register of debenture holders: right to inspect and require copy), it must within five working days either—

(a) comply with the request, or

(b) apply to the court.

(2) If it applies to the court it must notify the person making the request.

(3) If on an application under this section the court is satisfied that the inspection or copy is not sought for a proper purpose—

(a) it shall direct the company not to comply with the request, and

(b) it may further order that the company's costs (in Scotland, expenses) on the application be paid in whole or in part by the person who made the request, even if he is not a party to the application.

(4) If the court makes such a direction and it appears to the court that the company is or may be subject to other requests made for a similar purpose (whether made by the same person or different persons), it may direct that the company is not to comply with any such request.

The order must contain such provision as appears to the court appropriate to identify the requests to which it applies.

(5) If on an application under this section the court does not direct the company not to comply with the request, the company must comply with the request immediately upon the court giving its decision or, as the case may be, the proceedings being discontinued.

Modifications etc. (not altering text)

C1077 Ss. 743-748 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **21**

746 Register of debenture holders: refusal of inspection or default in providing copy

(1) If an inspection required under section 744 (register of debenture holders: right to inspect and require copy) is refused or default is made in providing a copy required under that section, otherwise than in accordance with an order of the court, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

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(3) In the case of any such refusal or default the court may by order compel an immediate inspection or, as the case may be, direct that the copy required be sent to the person requesting it.

Modifications etc. (not altering text)

C1078 Ss. 743-748 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **21**

747 Register of debenture holders: offences in connection with request for or disclosure of information

(1) It is an offence for a person knowingly or recklessly to make in a request under section 744 (register of debenture holders: right to inspect and require copy) a statement that is misleading, false or deceptive in a material particular.

(2) It is an offence for a person in possession of information obtained by exercise of either of the rights conferred by that section—

(a) to do anything that results in the information being disclosed to another person, or

(b) to fail to do anything with the result that the information is disclosed to another person,

knowing, or having reason to suspect, that person may use the information for a purpose that is not a proper purpose.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

Modifications etc. (not altering text)

C1079 Ss. 743-748 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **21**

748 Time limit for claims arising from entry in register

(1) Liability incurred by a company—

(a) from the making or deletion of an entry in the register of debenture holders, or

(b) from a failure to make or delete any such entry,

is not enforceable more than ten years after the date on which the entry was made or deleted or, as the case may be, the failure first occurred.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(2) This is without prejudice to any lesser period of limitation (and, in Scotland, to any rule that the obligation giving rise to the liability prescribes before the expiry of that period).

Modifications etc. (not altering text)

C1080 Ss. 743-748 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **21**

Supplementary provisions

749 Right of debenture holder to copy of deed

(1) Any holder of debentures of a company is entitled, on request and on payment of such fee as may be prescribed, to be provided with a copy of any trust deed for securing the debentures.

(2) If default is made in complying with this section, an offence is committed by every officer of the company who is in default.

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

(4) In the case of any such default the court may direct that the copy required be sent to the person requiring it.

Modifications etc. (not altering text)

C1081 S. 749 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **22**

Commencement Information

I248 S. 749 wholly in force at 6.4.2008; s. 749 not in force at Royal Assent, see s. 1300; s. 749 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 749 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(g)** (with savings in arts. 7, 12, subject to transitional adaptations in Sch. 1 para. 12 and with savings in Sch. 4 paras. 20-23)

750 Liability of trustees of debentures

(1) Any provision contained in—

(a) a trust deed for securing an issue of debentures, or

(b) any contract with the holders of debentures secured by a trust deed,

is void in so far as it would have the effect of exempting a trustee of the deed from, or indemnifying him against, liability for breach of trust where he fails to show the degree of care and diligence required of him as trustee, having regard to the provisions of the trust deed conferring on him any powers, authorities or discretions.

(2) Subsection (1) does not invalidate—

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(a) a release otherwise validly given in respect of anything done or omitted to be done by a trustee before the giving of the release;

(b) any provision enabling such a release to be given—

(i) on being agreed to by a majority of not less than 75% in value of the debenture holders present and voting in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose, and

(ii) either with respect to specific acts or omissions or on the trustee dying or ceasing to act.

(3) This section is subject to section 751 (saving for certain older provisions).

Modifications etc. (not altering text)

C1082S. 750 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **22**

751 Liability of trustees of debentures: saving for certain older provisions

(1) Section 750 (liability of trustees of debentures) does not operate—

(a) to invalidate any provision in force on the relevant date so long as any person—

(i) then entitled to the benefit of the provision, or

(ii) afterwards given the benefit of the provision under subsection (3) below,

remains a trustee of the deed in question, or

(b) to deprive any person of any exemption or right to be indemnified in respect of anything done or omitted to be done by him while any such provision was in force.

(2) The relevant date for this purpose is—

(a) 1st July 1948 in a case where section 192 of the Companies Act 1985 (c. 6) applied immediately before the commencement of this section;

(b) 1st July 1961 in a case where Article 201 of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)) then applied.

(3) While any trustee of a trust deed remains entitled to the benefit of a provision saved by subsection (1) above the benefit of that provision may be given either—

(a) to all trustees of the deed, present and future, or

(b) to any named trustees or proposed trustees of it,

by a resolution passed by a majority of not less than 75% in value of the debenture holders present in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose.

(4) A meeting for that purpose must be summoned in accordance with the provisions of the deed or, if the deed makes no provision for summoning meetings, in a manner approved by the court.

752 Power to re-issue redeemed debentures

(1) Where a company has redeemed debentures previously issued, then unless—

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(a) provision to the contrary (express or implied) is contained in the company's articles or in any contract made by the company, or

(b) the company has, by passing a resolution to that effect or by some other act, manifested its intention that the debentures shall be cancelled,

the company may re-issue the debentures, either by re-issuing the same debentures or by issuing new debentures in their place.

This subsection is deemed always to have had effect.

(2) On a re-issue of redeemed debentures the person entitled to the debentures has (and is deemed always to have had) the same priorities as if the debentures had never been redeemed.

(3) The re-issue of a debenture or the issue of another debenture in its place under this section is treated as the issue of a new debenture for the purposes of stamp duty.

It is not so treated for the purposes of any provision limiting the amount or number of debentures to be issued.

(4) A person lending money on the security of a debenture re-issued under this section which appears to be duly stamped may give the debenture in evidence in any proceedings for enforcing his security without payment of the stamp duty or any penalty in respect of it, unless he had notice (or, but for his negligence, might have discovered) that the debenture was not duly stamped.

In that case the company is liable to pay the proper stamp duty and penalty.

Modifications etc. (not altering text)
C1083 Ss. 752-754 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **23**

753 Deposit of debentures to secure advances

Where a company has deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures are not treated as redeemed by reason only of the company's account having ceased to be in debit while the debentures remained so deposited.

Modifications etc. (not altering text)
C1084 Ss. 752-754 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **23**

754 Priorities where debentures secured by floating charge

(1) This section applies where debentures of a company registered in England and Wales or Northern Ireland are secured by a charge that, as created, was a floating charge.

(2) If possession is taken, by or on behalf of the holders of the debentures, of any property comprised in or subject to the charge, and the company is not at that time in the course of being wound up, the company's preferential debts shall be paid out of assets coming

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to the hands of the persons taking possession in priority to any claims for principal or interest in respect of the debentures.

(3) "Preferential debts" means the categories of debts listed in Schedule 6 to the Insolvency Act 1986 (c. 45) or Schedule 4 to the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

For the purposes of those Schedules "the relevant date" is the date of possession being taken as mentioned in subsection (2).

(4) Payments under this section shall be recouped, as far as may be, out of the assets of the company available for payment of general creditors.

Modifications etc. (not altering text)

C1085 S. 754 restricted (6.3.2008) by The Regulated Covered Bonds Regulations 2008 (S.I. 2008/346), reg. 46, **Sch. para. 6**

C1086 Ss. 752-754 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **23**

C1087 S. 754 applied by The Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999/2979), reg. 14(5)(a)(v) (as substituted (1.10.2009) by The Financial Markets and Insolvency (Settlement Finality) (Amendment) Regulations 2009 (S.I. 2009/1972), **reg. 4(d)(iii)**)

PART 20

PRIVATE AND PUBLIC COMPANIES

Modifications etc. (not altering text)

C1088 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

CHAPTER 1

PROHIBITION OF PUBLIC OFFERS BY PRIVATE COMPANIES

755 Prohibition of public offers by private company

(1) A private company limited by shares or limited by guarantee and having a share capital must not—

(a) offer to the public any securities of the company, or

(b) allot or agree to allot any securities of the company with a view to their being offered to the public.

(2) Unless the contrary is proved, an allotment or agreement to allot securities is presumed to be made with a view to their being offered to the public if an offer of the securities (or any of them) to the public is made—

(a) within six months after the allotment or agreement to allot, or

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(b) before the receipt by the company of the whole of the consideration to be received by it in respect of the securities.

(3) A company does not contravene this section if—

(a) it acts in good faith in pursuance of arrangements under which it is to re-register as a public company before the securities are allotted, or

(b) as part of the terms of the offer it undertakes to re-register as a public company within a specified period, and that undertaking is complied with.

(4) The specified period for the purposes of subsection (3)(b) must be a period ending not later than six months after the day on which the offer is made (or, in the case of an offer made on different days, first made).

(5) In this Chapter "securities" means shares or debentures.

756 Meaning of "offer to the public"

(1) This section explains what is meant in this Chapter by an offer of securities to the public.

(2) An offer to the public includes an offer to any section of the public, however selected.

(3) An offer is not regarded as an offer to the public if it can properly be regarded, in all the circumstances, as—

(a) not being calculated to result, directly or indirectly, in securities of the company becoming available to persons other than those receiving the offer, or

(b) otherwise being a private concern of the person receiving it and the person making it.

(4) An offer is to be regarded (unless the contrary is proved) as being a private concern of the person receiving it and the person making it if—

(a) it is made to a person already connected with the company and, where it is made on terms allowing that person to renounce his rights, the rights may only be renounced in favour of another person already connected with the company; or

(b) it is an offer to subscribe for securities to be held under an employees' share scheme and, where it is made on terms allowing that person to renounce his rights, the rights may only be renounced in favour of—

(i) another person entitled to hold securities under the scheme, or

(ii) a person already connected with the company.

(5) For the purposes of this section "person already connected with the company" means—

(a) an existing member or employee of the company,

(b) a member of the family of a person who is or was a member or employee of the company,

(c) the widow or widower, or surviving civil partner, of a person who was a member or employee of the company,

(d) an existing debenture holder of the company, or

(e) a trustee (acting in his capacity as such) of a trust of which the principal beneficiary is a person within any of paragraphs (a) to (d).

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(6) For the purposes of subsection (5)(b) the members of a person's family are the person's spouse or civil partner and children (including step-children) and their descendants.

757 Enforcement of prohibition: order restraining proposed contravention

(1) If it appears to the court—

(a) on an application under this section, or

(b) in proceedings under Part 30 (protection of members against unfair prejudice),

that a company is proposing to act in contravention of section 755 (prohibition of public offers by private companies), the court shall make an order under this section.

(2) An order under this section is an order restraining the company from contravening that section.

(3) An application for an order under this section may be made by—

(a) a member or creditor of the company, or

(b) the Secretary of State.

758 Enforcement of prohibition: orders available to the court after contravention

(1) This section applies if it appears to the court—

(a) on an application under this section, or

(b) in proceedings under Part 30 (protection of members against unfair prejudice),

that a company has acted in contravention of section 755 (prohibition of public offers by private companies).

(2) The court must make an order requiring the company to re-register as a public company unless it appears to the court—

(a) that the company does not meet the requirements for re-registration as a public company, and

(b) that it is impractical or undesirable to require it to take steps to do so.

(3) If it does not make an order for re-registration, the court may make either or both of the following—

(a) a remedial order (see section 759), or

(b) an order for the compulsory winding up of the company.

(4) An application under this section may be made by—

(a) a member of the company who—

(i) was a member at the time the offer was made (or, if the offer was made over a period, at any time during that period), or

(ii) became a member as a result of the offer,

(b) a creditor of the company who was a creditor at the time the offer was made (or, if the offer was made over a period, at any time during that period), or

(c) the Secretary of State.

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759 Enforcement of prohibition: remedial order

(1) A "remedial order" is an order for the purpose of putting a person affected by anything done in contravention of section 755 (prohibition of public offers by private company) in the position he would have been in if it had not been done.

(2) The following provisions are without prejudice to the generality of the power to make such an order.

(3) Where a private company has—

(a) allotted securities pursuant to an offer to the public, or

(b) allotted or agreed to allot securities with a view to their being offered to the public,

a remedial order may require any person knowingly concerned in the contravention of section 755 to offer to purchase any of those securities at such price and on such other terms as the court thinks fit.

(4) A remedial order may be made—

(a) against any person knowingly concerned in the contravention, whether or not an officer of the company;

(b) notwithstanding anything in the company's constitution (which includes, for this purpose, the terms on which any securities of the company are allotted or held);

(c) whether or not the holder of the securities subject to the order is the person to whom the company allotted or agreed to allot them.

(5) Where a remedial order is made against the company itself, the court may provide for the reduction of the company's capital accordingly.

760 Validity of allotment etc not affected

Nothing in this Chapter affects the validity of any allotment or sale of securities or of any agreement to allot or sell securities.

CHAPTER 2

MINIMUM SHARE CAPITAL REQUIREMENT FOR PUBLIC COMPANIES

761 Public company: requirement as to minimum share capital

(1) A company that is a public company (otherwise than by virtue of re-registration as a public company) must not do business or exercise any borrowing powers unless the registrar has issued it with a certificate under this section (a "trading certificate").

(2) The registrar shall issue a trading certificate if, on an application made in accordance with section 762, he is satisfied that the nominal value of the company's allotted share capital is not less than the authorised minimum.

(3) For this purpose a share allotted in pursuance of an employees' share scheme shall not be taken into account unless paid up as to—

(a) at least one-quarter of the nominal value of the share, and

(b) the whole of any premium on the share.

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(4) A trading certificate has effect from the date on which it is issued and is conclusive evidence that the company is entitled to do business and exercise any borrowing powers.

762 Procedure for obtaining certificate

(1) An application for a certificate under section 761 must—

(a) state that the nominal value of the company's allotted share capital is not less than the authorised minimum,

(b) specify the amount, or estimated amount, of the company's preliminary expenses,

(c) specify any amount or benefit paid or given, or intended to be paid or given, to any promoter of the company, and the consideration for the payment or benefit, [F846]...

(d) be accompanied by a statement of compliance **[**[F847]and

(e) be accompanied by a statement of the aggregate amount paid up on the shares of the company on account of their nominal value.**]**

(2) The statement of compliance is a statement that the company meets the requirements for the issue of a certificate under section 761.

(3) The registrar may accept the statement of compliance as sufficient evidence of the matters stated in it.

Textual Amendments

F846 Word in s. 762(1) omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 98(3)(a)**, 164(1); S.I. 2016/321, reg. 6(f)

F847 S. 762(1)(e) and word inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 98(3)(b)**, 164(1); S.I. 2016/321, reg. 6(f)

763 The authorised minimum

(1) "The authorised minimum", in relation to the nominal value of a public company's allotted share capital is—

(a) £50,000, or

(b) the prescribed euro equivalent.

(2) The Secretary of State may by order prescribe the amount in euros that is for the time being to be treated as equivalent to the sterling amount of the authorised minimum.

(3) This power may be exercised from time to time as appears to the Secretary of State to be appropriate.

(4) The amount prescribed shall be determined by applying an appropriate spot rate of exchange to the sterling amount and rounding to the nearest 100 euros.

(5) An order under this section is subject to negative resolution procedure.

(6) This section has effect subject to any exercise of the power conferred by section 764 (power to alter authorised minimum).

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I249 S. 763 wholly in force at 6.4.2008; s. 763 not in force at Royal Assent, see s. 1300; s. 763 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 763 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(h)** (with savings in arts. 7, 12, subject to transitional adaptations in Sch. 1 para. 13 and with savings in Sch. 4 paras. 24-29)

764 Power to alter authorised minimum

(1) The Secretary of State may by order—

(a) alter the sterling amount of the authorised minimum, and

(b) make a corresponding alteration of the prescribed euro equivalent.

(2) The amount of the prescribed euro equivalent shall be determined by applying an appropriate spot rate of exchange to the sterling amount and rounding to the nearest 100 euros.

(3) An order under this section that increases the authorised minimum may—

(a) require a public company having an allotted share capital of which the nominal value is less than the amount specified in the order to—

(i) increase that value to not less than that amount, or

(ii) re-register as a private company;

(b) make provision in connection with any such requirement for any of the matters for which provision is made by this Act relating to—

(i) a company's registration, re-registration or change of name,

(ii) payment for shares comprised in a company's share capital, and

(iii) offers to the public of shares in or debentures of a company,

including provision as to the consequences (in criminal law or otherwise) of a failure to comply with any requirement of the order;

(c) provide for any provision of the order to come into force on different days for different purposes.

(4) An order under this section is subject to affirmative resolution procedure.

Commencement Information

I250 S. 764 wholly in force at 6.4.2008; s. 764 not in force at Royal Assent, see s. 1300; s. 764 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 764 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(h)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 para. 13 and with savings in Sch. 4 paras. 24-29)

765 Authorised minimum: application of initial requirement

(1) The initial requirement for a public company to have allotted share capital of a nominal value not less than the authorised minimum, that is—

(a) the requirement in section 761(2) for the issue of a trading certificate, or

(b) the requirement in section 91(1)(a) for re-registration as a public company,

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must be met either by reference to allotted share capital denominated in sterling or by reference to allotted share capital denominated in euros (but not partly in one and partly in the other).

(2) Whether the requirement is met is determined in the first case by reference to the sterling amount and in the second case by reference to the prescribed euro equivalent.

(3) No account is to be taken of any allotted share capital of the company denominated in a currency other than sterling or, as the case may be, euros.

(4) If the company could meet the requirement either by reference to share capital denominated in sterling or by reference to share capital denominated in euros, it must elect in its application for a trading certificate or, as the case may be, for re-registration as a public company which is to be the currency by reference to which the matter is determined.

Modifications etc. (not altering text)

C1089 S. 765 applied (6.4.2008) by 1985 c. 9, s. 3(2A) (as inserted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 95(3)** (with arts. 6, 11, 12))

C1090 S. 765 applied (6.4.2008) by S.I.1986/1032 (N.I. 6), art. 22(b) (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 114** (with arts. 6, 11, 12))

Commencement Information

I251 S. 765 wholly in force at 6.4.2008; s. 765 not in force at Royal Assent, see s. 1300; s. 765 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 765 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(h)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 para. 12 and with savings in Sch. 4 paras. 24-29)

766 Authorised minimum: application where shares denominated in different currencies etc

(1) The Secretary of State may make provision by regulations as to the application of the authorised minimum in relation to a public company that—

[[F848](a) has shares denominated—

(i) in more than one currency, or

(ii) in a currency other than sterling or euros,**]**

(b) redenominates the whole or part of its allotted share capital, or

(c) allots new shares.

(2) The regulations may make provision as to the currencies, exchange rates and dates by reference to which it is to be determined whether the nominal value of the company's allotted share capital is less than the authorised minimum.

(3) The regulations may provide that where—

(a) a company has redenominated the whole or part of its allotted share capital, and

(b) the effect of the redenomination is that the nominal value of the company's allotted share capital is less than the authorised minimum,

the company must re-register as a private company.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Regulations under subsection (3) may make provision corresponding to any provision made by sections 664 to 667 (re-registration as private company in consequence of cancellation of shares).

(5) Any regulations under this section have effect subject to section 765 (authorised minimum: application of initial requirement).

(6) Regulations under this section are subject to negative resolution procedure.

Textual Amendments

F848 S. 766(1)(a) substituted (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), **art. 28(2)**

Commencement Information

I252 S. 766 wholly in force at 6.4.2008; s. 766 not in force at Royal Assent, see s. 1300; s. 766 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 766 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(h)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 para. 13 and with savings in Sch. 4 paras. 24-29)

767 Consequences of doing business etc without a trading certificate

(1) If a company does business or exercises any borrowing powers in contravention of section 761, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

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

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

(3) A contravention of section 761 does not affect the validity of a transaction entered into by the company, but if a company—

(a) enters into a transaction in contravention of that section, and

(b) fails to comply with its obligations in connection with the transaction within 21 days from being called on to do so,

the directors of the company are jointly and severally liable to indemnify any other party to the transaction in respect of any loss or damage suffered by him by reason of the company's failure to comply with its obligations.

(4) The directors who are so liable are those who were directors at the time the company entered into the transaction.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

PART 21

CERTIFICATION AND TRANSFER OF SECURITIES

Modifications etc. (not altering text)

C1091 Pt. 21 applied (with modifications) (8.00 a.m. on 29.9.2008) by The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), **art. 4(7)**

C1092 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

CHAPTER 1

CERTIFICATION AND TRANSFER OF SECURITIES: GENERAL

Share certificates

768 Share certificate to be evidence of title

(1) In the case of a company registered in England and Wales or Northern Ireland, a certificate under the common seal of the company specifying any shares held by a member is prima facie evidence of his title to the shares.

(2) In the case of a company registered in Scotland—

(a) a certificate under the common seal of the company specifying any shares held by a member, or

(b) a certificate specifying any shares held by a member and subscribed by the company in accordance with the Requirements of Writing (Scotland) Act 1995 (c. 7),

is sufficient evidence, unless the contrary is shown, of his title to the shares.

Modifications etc. (not altering text)

C1093 S. 768 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 12(1)(a)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Issue of certificates etc on allotment

769 Duty of company as to issue of certificates etc on allotment

(1) A company must, within two months after the allotment of any of its shares, debentures or debenture stock, complete and have ready for delivery—

(a) the certificates of the shares allotted,

(b) the debentures allotted, or

(c) the certificates of the debenture stock allotted.

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(2) Subsection (1) does not apply—

(a) if the conditions of issue of the shares, debentures or debenture stock provide otherwise,

(b) in the case of allotment to a financial institution (see section 778), or

(c) in the case of an allotment of shares if, following the allotment, the company has issued a share warrant in respect of the shares (see section 779).

(3) If default is made in complying with subsection (1) an offence is committed by every officer of the company who is in default.

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

Modifications etc. (not altering text)

C1094 S. 769 applied (with modifications) (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), **art. 3(8)**

C1095 S. 769 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **24**

Transfer of securities

770 Registration of transfer

(1) A company may not register a transfer of shares in or debentures of the company unless—

(a) a proper instrument of transfer has been delivered to it, or

(b) the transfer—

(i) is an exempt transfer within the Stock Transfer Act 1982 (c. 41), or

(ii) is in accordance with regulations under Chapter 2 of this Part.

(2) Subsection (1) does not affect any power of the company to register as shareholder or debenture holder a person to whom the right to any shares in or debentures of the company has been transmitted by operation of law.

[[F849](3) If an election under Chapter 2A of Part 8 is in force in respect of the company, references in this section to registering a transfer (or a person) are to be read as references to delivering particulars of that transfer (or person) to the registrar under that Chapter.**]**

Textual Amendments

F849 S. 770(3) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 26**; S.I. 2016/321, reg. 6(c)

Modifications etc. (not altering text)

C1096 S. 770 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **25**

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771 Procedure on transfer being lodged

(1) When a transfer of shares in or debentures of a company has been lodged with the company, the company must either—

(a) register the transfer, or

(b) give the transferee notice of refusal to register the transfer, together with its reasons for the refusal,

as soon as practicable and in any event within two months after the date on which the transfer is lodged with it.

(2) If the company refuses to register the transfer, it must provide the transferee with such further information about the reasons for the refusal as the transferee may reasonably request.

This does not include copies of minutes of meetings of directors.

[F850(2A) If an election is in force under Chapter 2A of Part 8 in respect of the company, references in this section to registering the transfer are to be read as references to delivering particulars of the transfer to the registrar in accordance with that Chapter.**]**

(3) If a company fails to comply with this section, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

(5) This section does not apply—

(a) in relation to a transfer of shares if the company has issued a share warrant in respect of the shares (see section 779);

(b) in relation to the transmission of shares or debentures by operation of law.

Textual Amendments

F850 S. 771(2A) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 27**; S.I. 2016/321, reg. 6(c)

Modifications etc. (not altering text)

C1097 S. 771 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **25**

772 Transfer of shares on application of transferor

On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee**[**F851(or, as the case may be, deliver the name of the transferee to the registrar under Chapter 2A of Part 8)**]** in the same manner and subject to the same conditions as if the application for the entry**[**F852(or delivery)**]** were made by the transferee.

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Textual Amendments

F851 Words in s. 772 inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 28(a)**; S.I. 2016/321, reg. 6(c)

F852 Words in s. 772 inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 28(b)**; S.I. 2016/321, reg. 6(c)

773 Execution of share transfer by personal representative

An instrument of transfer of the share or other interest of a deceased member of a company—

(a) may be made by his personal representative although the personal representative is not himself a member of the company, and

(b) is as effective as if the personal representative had been such a member at the time of the execution of the instrument.

774 Evidence of grant of probate etc

The production to a company of any document that is by law sufficient evidence of the grant of—

(a) probate of the will of a deceased person,

(b) letters of administration of the estate of a deceased person, or

(c) confirmation as executor of a deceased person,

shall be accepted by the company as sufficient evidence of the grant.

Modifications etc. (not altering text)

C1098 S. 774 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **26**

775 Certification of instrument of transfer

(1) The certification by a company of an instrument of transfer of any shares in, or debentures of, the company is to be taken as a representation by the company to any person acting on the faith of the certification that there have been produced to the company such documents as on their face show a prima facie title to the shares or debentures in the transferor named in the instrument.

(2) The certification is not to be taken as a representation that the transferor has any title to the shares or debentures.

(3) Where a person acts on the faith of a false certification by a company made negligently, the company is under the same liability to him as if the certification had been made fraudulently.

(4) For the purposes of this section—

(a) an instrument of transfer is certificated if it bears the words "certificate lodged" (or words to the like effect);

(b) the certification of an instrument of transfer is made by a company if—

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(i) the person issuing the instrument is a person authorised to issue certificated instruments of transfer on the company's behalf, and

(ii) the certification is signed by a person authorised to certificate transfers on the company's behalf or by an officer or employee either of the company or of a body corporate so authorised;

(c) a certification is treated as signed by a person if—

(i) it purports to be authenticated by his signature or initials (whether handwritten or not), and

(ii) it is not shown that the signature or initials was or were placed there neither by himself nor by a person authorised to use the signature or initials for the purpose of certificating transfers on the company's behalf.

Modifications etc. (not altering text)

C1099S. 775 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **26**

Issue of certificates etc on transfer

776 Duty of company as to issue of certificates etc on transfer

(1) A company must, within two months after the date on which a transfer of any of its shares, debentures or debenture stock is lodged with the company, complete and have ready for delivery—

(a) the certificates of the shares transferred,

(b) the debentures transferred, or

(c) the certificates of the debenture stock transferred.

(2) For this purpose a "transfer" means—

(a) a transfer duly stamped and otherwise valid, or

(b) an exempt transfer within the Stock Transfer Act 1982 (c. 41),

but does not include a transfer that the company is for any reason entitled to refuse to register and does not register.

(3) Subsection (1) does not apply—

(a) if the conditions of issue of the shares, debentures or debenture stock provide otherwise,

(b) in the case of a transfer to a financial institution (see section 778), or

(c) in the case of a transfer of shares if, following the transfer, the company has issued a share warrant in respect of the shares (see section 779).

(4) Subsection (1) has effect subject to section 777 (cases where the Stock Transfer Act 1982 applies).

(5) If default is made in complying with subsection (1) an offence is committed by every officer of the company who is in default.

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

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Modifications etc. (not altering text)

C1100 S. 776 applied (with modifications) (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), **art. 3(3)(4)**

C1101 S. 776 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **27**

C1102 S. 776 modified (1.1.2010) by The Northern Rock plc Transfer Order 2009 (S.I. 2009/3226), arts. 1(2), 3, **Sch. 1 para. 28(3)(4)**

C1103 S. 776(3)(4) disapplied (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), **3(5)(a)**

C1104 S. 776(3)(4) disapplied (1.1.2010) by The Northern Rock plc Transfer Order 2009 (S.I. 2009/3226), arts. 1(2), 3, **Sch. 1 para. 28(5)(a)**

777 Issue of certificates etc: cases within the Stock Transfer Act 1982

(1) Section 776(1) (duty of company as to issue of certificates etc on transfer) does not apply in the case of a transfer to a person where, by virtue of regulations under section 3 of the Stock Transfer Act 1982, he is not entitled to a certificate or other document of or evidencing title in respect of the securities transferred.

(2) But if in such a case the transferee—

(a) subsequently becomes entitled to such a certificate or other document by virtue of any provision of those regulations, and

(b) gives notice in writing of that fact to the company,

section 776 (duty to company as to issue of certificates etc) has effect as if the reference in subsection (1) of that section to the date of the lodging of the transfer were a reference to the date of the notice.

Modifications etc. (not altering text)

C1105 S. 777 disapplied (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), **art. 3(5)(b)**

C1106 S. 777 disapplied (1.1.2010) by The Northern Rock plc Transfer Order 2009 (S.I. 2009/3226), arts. 1(2), 3, **Sch. 1 para. 28(5)(b)**

Issue of certificates etc on allotment or transfer to financial institution

F853 778 Issue of certificates etc: allotment or transfer to financial institution

(1) A company—

(a) of which shares or debentures are allotted to a financial institution,

(b) of which debenture stock is allotted to a financial institution, or

(c) with which a transfer for transferring shares, debentures or debenture stock to a financial institution is lodged,

is not required in consequence of that allotment or transfer to comply with section 769(1) or 776(1) (duty of company as to issue of certificates etc).

(2) A "financial institution" means—

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(a) a recognised clearing house **[**F854or a recognised CSD**]** acting in relation to a recognised investment exchange, or

(b) a nominee of—

(i) a recognised clearing house **[**F854or a recognised CSD**]** acting in that way, or

(ii) a recognised investment exchange,

designated for the purposes of this section in the rules of the recognised investment exchange in question.

(3) Expressions used in subsection (2) have the same meaning as in Part 18 of the Financial Services and Markets Act 2000 (c. 8).

Textual Amendments

F853 S. 778 amendment to earlier affecting provision S.I. 2009/1804, reg. 28 (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), reg. 1, **Sch. para. 33** (with regs. 7(4), 9(1))

F854 Words in s. 778(2)(a)(b)(i) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), reg. 1, **Sch. para. 11(2)** (with regs. 7(4), 9(1))

Modifications etc. (not altering text)

C1107 S. 778 disapplied (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), **art. 3(5)(b)**

C1108 S. 778 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **28**

C1109 S. 778 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), {regs. 3-5, Sch. 1 para. 12(1)(b)(2)} (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1110 S. 778 disapplied (1.1.2010) by The Northern Rock plc Transfer Order 2009 (S.I. 2009/3226), arts. 1(2), 3, **Sch. 1 para. 28(5)(c)**

Share warrants

779 [F855Prohibition on issue of new share warrants and effect of existing share warrants]

(1) A company limited by shares may, if so authorised by its articles, issue with respect to any fully paid shares a warrant (a "share warrant") stating that the bearer of the warrant is entitled to the shares specified in it.

(2) A share warrant issued under the company's common seal or (in the case of a company registered in Scotland) subscribed in accordance with the Requirements of Writing (Scotland) Act 1995 (c. 7) entitles the bearer to the shares specified in it and the shares may be transferred by delivery of the warrant.

(3) A company that issues a share warrant may, if so authorised by its articles, provide (by coupons or otherwise) for the payment of the future dividends on the shares included in the warrant.

[F856(4) No share warrant may be issued by a company (irrespective of whether its articles purport to authorise it to do so) on or after the day on which section 84 of the Small Business, Enterprise and Employment Act 2015 comes into force.**]**

Status: *Point in time view as at 31/12/2020.*
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Textual Amendments

F855 S. 779 heading substituted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 84(2)**, 164(3)(g)(ii)

F856 S. 779(4) inserted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 84(1)**, 164(3)(g)(ii)

F857 780 Duty of company as to issue of certificates on surrender of share warrant

. . . . . .

Textual Amendments

F857 S. 780 omitted (26.5.2015) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 26(1)** (with Sch. 4 para. 26(2))

781 Offences in connection with share warrants (Scotland)

(1) If in Scotland a person—

(a) with intent to defraud, forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, any share warrant or coupon, or any document purporting to be a share warrant or coupon issued in pursuance of this Act, or

(b) by means of any such forged or altered share warrant, coupon or document—

(i) demands or endeavours to obtain or receive any share or interest in a company under this Act, or

(ii) demands or endeavours to receive any dividend or money payment in respect of any such share or interest,

knowing the warrant, coupon or document to be forged or altered,

he commits an offence.

(2) If in Scotland a person without lawful authority or excuse (of which proof lies on him) —

(a) engraves or makes on any plate, wood, stone, or other material, any share warrant or coupon purporting to be—

(i) a share warrant or coupon issued or made by any particular company in pursuance of this Act, or

(ii) a blank share warrant or coupon so issued or made, or

(iii) a part of such a share warrant or coupon, or

(b) uses any such plate, wood, stone, or other material, for the making or printing of any such share warrant or coupon, or of any such blank share warrant or coupon or of any part of such a share warrant or coupon, or

(c) knowingly has in his custody or possession any such plate, wood, stone, or other material,

he commits an offence.

(3) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale (or both).

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

(a) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine (or both);

(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum (or both).

Supplementary provisions

782 Issue of certificates etc: court order to make good default

(1) If a company on which a notice has been served requiring it to make good any default in complying with—

(a) section 769(1) (duty of company as to issue of certificates etc on allotment),

(b) section 776(1) (duty of company as to issue of certificates etc on transfer), or

(c) section 780(1) (duty of company as to issue of certificates etc on surrender of share warrant),

fails to make good the default within ten days after service of the notice, the person entitled to have the certificates or the debentures delivered to him may apply to the court.

(2) The court may on such an application make an order directing the company and any officer of it to make good the default within such time as may be specified in the order.

(3) The order may provide that all costs (in Scotland, expenses) of and incidental to the application are to be borne by the company or by an officer of it responsible for the default.

Modifications etc. (not altering text)

C1111 S. 782 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **29**

CHAPTER 2

EVIDENCING AND TRANSFER OF TITLE TO SECURITIES WITHOUT WRITTEN INSTRUMENT

Introductory

783 Scope of this Chapter

In this Chapter—

(a) "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 (c. 8) and other securities of any description;

(b) references to title to securities include any legal or equitable interest in securities;

(c) references to a transfer of title include a transfer by way of security;

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(d) references to transfer without a written instrument include, in relation to bearer securities, transfer without delivery.

784 Power to make regulations

(1) The power to make regulations under this Chapter is exercisable by the Treasury and the Secretary of State, either jointly or concurrently.

(2) References in this Chapter to the authority having power to make regulations shall accordingly be read as references to both or either of them, as the case may require.

(3) Regulations under this Chapter are subject to affirmative resolution procedure.

Commencement Information

I253 S. 784 wholly in force at 6.4.2008; s. 784 not in force at Royal Assent, see s. 1300; s. 784 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 784 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(i)** (with savings in arts. 7, 12, subject to transitional adaptations in Sch. 1 para. 13 and with savings in Sch. 4 paras. 30-31)

Powers exercisable

785 Provision enabling procedures for evidencing and transferring title

(1) Provision may be made by regulations for enabling title to securities to be evidenced and transferred without a written instrument.

(2) The regulations may make provision—

(a) for procedures for recording and transferring title to securities, and

(b) for the regulation of those procedures and the persons responsible for or involved in their operation.

(3) The regulations must contain such safeguards as appear to the authority making the regulations appropriate for the protection of investors and for ensuring that competition is not restricted, distorted or prevented.

(4) The regulations may, for the purpose of enabling or facilitating the operation of the procedures provided for by the regulations, make provision with respect to the rights and obligations of persons in relation to securities dealt with under the procedures.

(5) The regulations may include provision for the purpose of giving effect to—

(a) the transmission of title to securities by operation of law;

(b) any restriction on the transfer of title to securities arising by virtue of the provisions of any enactment or instrument, court order or agreement;

(c) any power conferred by any such provision on a person to deal with securities on behalf of the person entitled.

(6) The regulations may make provision with respect to the persons responsible for the operation of the procedures provided for by the regulations—

(a) as to the consequences of their insolvency or incapacity, or

(b) as to the transfer from them to other persons of their functions in relation to those procedures.

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[F858(7) The regulations may confer functions on any person, including—

(a) the function of giving guidance or issuing a code of practice in relation to any provision made by the regulations, and

(b) the function of making rules for the purposes of any provision made by the regulations.

(8) The regulations may, in prescribed cases, confer immunity from liability in damages.**]**

Textual Amendments

F858 S. 785(7)(8) inserted (24.1.2013 for specified purposes; 1.4.2013 in so far as not already in force) by Financial Services Act 2012 (c. 21), **ss. 112**, 122(3) (with Sch. 20); S.I. 2013/113, art. 2(1)(b), **Sch. Pt. 2**; S.I. 2013/423, art. 3, **Sch.**

Commencement Information

I254 S. 785 wholly in force at 6.4.2008; s. 785 not in force at Royal Assent, see s. 1300; s. 785 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 785 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(i)** (with savings in arts. 7, 12, subject to transitional adaptations in Sch. 1 para. 13 and with savings in Sch. 4 paras. 30-31)

786 Provision enabling or requiring arrangements to be adopted

(1) Regulations under this Chapter may make provision—

(a) enabling the members of a company or of any designated class of companies to adopt, by ordinary resolution, arrangements under which title to securities is required to be evidenced or transferred (or both) without a written instrument; or

(b) requiring companies, or any designated class of companies, to adopt such arrangements.

(2) The regulations may make such provision—

(a) in respect of all securities issued by a company, or

(b) in respect of all securities of a specified description.

(3) The arrangements provided for by regulations making such provision as is mentioned in subsection (1)—

(a) must not be such that a person who but for the arrangements would be entitled to have his name entered in the company's register of members**[**F859(or, as the case may be, delivered to the registrar under Chapter 2A of Part 8)**]** ceases to be so entitled, and

(b) must be such that a person who but for the arrangements would be entitled to exercise any rights in respect of the securities continues to be able effectively to control the exercise of those rights.

(4) The regulations may—

(a) prohibit the issue of any certificate by the company in respect of the issue or transfer of securities,

(b) require the provision by the company to holders of securities of statements (at specified intervals or on specified occasions) of the securities held in their name, and

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(c) make provision as to the matters of which any such certificate or statement is, or is not, evidence.

(5) In this section—

(a) references to a designated class of companies are to a class designated in the regulations or by order under section 787; and

(b) "specified" means specified in the regulations.

Textual Amendments

F859 Words in s. 786(3)(a) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 29**; S.I. 2016/321, reg. 6(c)

Commencement Information

I255 S. 786 wholly in force at 6.4.2008; s. 786 not in force at Royal Assent, see s. 1300; s. 786 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 786 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(i)** (with savings in arts. 7, 12, subject to transitional adaptations in Sch. 1 para. 13 and with savings in Sch. 4 paras. 30-31)

787 Provision enabling or requiring arrangements to be adopted: order-making powers

(1) The authority having power to make regulations under this Chapter may by order—

(a) designate classes of companies for the purposes of section 786 (provision enabling or requiring arrangements to be adopted);

(b) provide that, in relation to securities of a specified description—

(i) in a designated class of companies, or

(ii) in a specified company or class of companies,

specified provisions of regulations made under this Chapter by virtue of that section either do not apply or apply subject to specified modifications.

(2) In subsection (1) "specified" means specified in the order.

(3) An order under this section is subject to negative resolution procedure.

Commencement Information

I256 S. 787 wholly in force at 6.4.2008; s. 787 not in force at Royal Assent, see s. 1300; s. 787 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 787 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(i)** (with savings in arts. 7, 12, subject to transitional adaptations in Sch. 1 para. 13 and with savings in Sch. 4 paras. 30-31)

Supplementary

788 Provision that may be included in regulations

Regulations under this Chapter may—

(a) modify or exclude any provision of any enactment or instrument, or any rule of law;

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(b) apply, with such modifications as may be appropriate, the provisions of any enactment or instrument (including provisions creating criminal offences);

(c) require the payment of fees, or enable persons to require the payment of fees, of such amounts as may be specified in the regulations or determined in accordance with them;

(d) empower the authority making the regulations to delegate to any person willing and able to discharge them any functions of the authority under the regulations.

Commencement Information

I257 S. 788 wholly in force at 6.4.2008; s. 788 not in force at Royal Assent, see s. 1300; s. 788 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 788 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(i)** (with savings in arts. 7, 12, subject to transitional adaptations in Sch. 1 para. 13 and with savings in Sch. 4 paras. 30-31)

789 Duty to consult

Before making—

(a) regulations under this Chapter, or

(b) any order under section 787,

the authority having power to make regulations under this Chapter must carry out such consultation as appears to it to be appropriate.

790 Resolutions to be forwarded to registrar

Chapter 3 of Part 3 (resolutions affecting a company's constitution) applies to a resolution passed by virtue of regulations under this Chapter.

[F860PART 21A

INFORMATION ABOUT PEOPLE WITH SIGNIFICANT CONTROL

Textual Amendments

F860 Pt. 21A inserted (26.5.2015 for specified purposes, 6.4.2016 except for the insertion of ss. 790M(9)(c), 790W-790ZE and 30.6.2016 so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 3 para. 1**; S.I. 2015/1329, reg. 3(a); S.I. 2015/2029, regs. 4(a), 5(a)

CHAPTER 1

INTRODUCTION

790A Overview

This Part is arranged as follows—

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the remaining provisions of this Chapter identify the companies to which this Part applies and explain some key terms, including what it means to have "significant control" over a company,

(b) Chapter 2 imposes duties on companies to gather information, and on others to supply information, to enable companies to keep the register required by Chapter 3,

(c) Chapter 3 requires companies to keep a register, referred to as a register of people with significant control over the company, and to make the register available to the public,

(d) Chapter 4 gives private companies the option of using an alternative method of record-keeping, and

(e) Chapter 5 makes provision for excluding certain material from the information available to the public.

Modifications etc. (not altering text)

C1112 S. 790A applied (with modifications) by S.I. 2009/1804, reg. 31A (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

790B Companies to which this Part applies

(1) This Part applies to companies other than—

[F861(a) companies with voting shares admitted to trading on a **[**F862UK regulated market or an EU regulated market**]**, and**]**

(b) companies of any description specified by the Secretary of State by regulations.

(2) In deciding whether to specify a description of company, the Secretary of State is to have regard to the extent to which companies of that description are bound by disclosure and transparency rules (in the United Kingdom or elsewhere) **[**F863which are contained in international standards and are equivalent to those applicable to companies referred to in subsection (1)(a)**]** .

F864(3) . . . . . .

(4) Regulations under this section are subject to affirmative resolution procedure.

[In this section—

F865(5) "voting shares" means shares carrying voting rights;

"voting rights" means rights to vote at general meetings of the company in question, including rights that arise only in certain circumstances.**]**

Textual Amendments

F861 S. 790B(1)(a) substituted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **5(2)** (with Sch. Pt. 1)

F862 Words in s. 790B(1)(a) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 10**; 2020 c. 1, Sch. 5 para. 1(1)

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F863 Words in s. 790B(2) substituted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **5(3)** (with Sch. Pt. 1)

F864 S. 790B(3) omitted (26.6.2017) by virtue of The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **5(4)** (with Sch. Pt. 1)

F865 S. 790B(5) inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **5(5)** (with Sch. Pt. 1)

790C Key terms

(1) This section explains some key terms used in this Part.

(2) References to a person with (or having) "significant control" over a company are to an individual who meets one or more of the specified conditions in relation to the company.

(3) The "specified conditions" are those specified in Part 1 of Schedule 1A.

(4) Individuals with significant control over a company are either "registrable" or " non-registrable " in relation to the company—

[F866(a) they are "non-registrable" if they do not hold any interest in the company except through one or more legal entities over each of which they have significant control and—

(i) as respects any shares or right in the company which they hold indirectly as described in paragraph 9(1)(b)(i) of Schedule 1A, the legal entity through which the shares or right are held is a relevant legal entity in relation to the company; and

(ii) as respects any shares or right in the company which they hold indirectly as described in paragraph 9(1)(b)(ii) of Schedule 1A, at least one of the legal entities in the chain is a relevant legal entity in relation to the company**]**

(b) otherwise, they are "registrable",

and references to a " registrable person " in relation to a company are to an individual with significant control over the company who is registrable in relation to that company.

(5) A "legal entity" is a body corporate or a firm that is a legal person under the law by which it is governed.

(6) In relation to a company, a legal entity is a "relevant legal entity" if—

(a) it would have come within the definition of a person with significant control over the company if it had been an individual, and

(b) it is subject to its own disclosure requirements.

(7) A legal entity is "subject to its own disclosure requirements" if—

(a) this Part applies to it (whether by virtue of section 790B or another enactment that extends the application of this Part),

[F867(aa) it is an eligible Scottish partnership within the meaning of regulation 3(2) of the Scottish Partnerships (Register of People with Significant Control) Regulations 2017.**]**

[F868(b) it has voting shares admitted to trading on a **[**F869UK regulated market or an EU regulated market,**]]**

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(c) it is of a description specified in regulations under section 790B (or that section as extended), or

(d) it is of a description specified by the Secretary of State by regulations made under this paragraph.

(8) A relevant legal entity is either "registrable" or " non-registrable " in relation to a company—

[F870(a) it is "non-registrable" if it does not hold any interest in the company except through one or more other legal entities over each of which it has significant control and—

(i) as respects any shares or right in the company which it holds indirectly as described in paragraph 9(1)(b)(i) of Schedule 1A, the legal entity through which the shares or right are held is also a relevant legal entity in relation to the company; and

(ii) as respects any shares or right in the company which it holds indirectly as described in paragraph 9(1)(b)(ii) of Schedule 1A, at least one of the legal entities in the chain is also a relevant legal entity in relation to the company;**]**

(b) otherwise, it is "registrable",

and references to a " registrable relevant legal entity " in relation to a company are to a relevant legal entity which is registrable in relation to that company.

(9) For the purposes of subsections (4) and (8)—

(a) whether someone—

(i) holds an interest in a company, or

(ii) holds that interest through another legal entity,

is to be determined in accordance with Part 2 of Schedule 1A;

(b) whether someone has significant control over that other legal entity is to be determined in accordance with subsections (2) and (3) and Part 1 of Schedule 1A, reading references in those provisions to the company as references to that other entity.

(10) The register that a company is required to keep under section 790M (register of people with significant control over a company) is referred to as the company's "PSC register".

(11) In deciding whether to specify a description of legal entity under paragraph (d) of subsection (7), the Secretary of State is to have regard to the extent to which entities of that description are bound by disclosure and transparency rules (in the United Kingdom or elsewhere) **[**F871equivalent**]** to the ones applying to an entity falling within any other paragraph of that subsection.

(12) Subject to express provision in this Part and to any modification prescribed by regulations under this subsection, this Part is to be read and have effect as if each of the following were an individual, even if they are legal persons under the laws by which they are governed—

(a) a corporation sole,

(b) a government or government department of a country or territory or a part of a country or territory,

(c) an international organisation whose members include two or more countries or territories (or their governments),

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(d) a local authority or local government body in the United Kingdom or elsewhere.

(13) Regulations under subsection (7)(d) are subject to affirmative resolution procedure.

(14) Subject to subsection (13), regulations under this section are subject to negative resolution procedure.

F872(15) **[** In this section "voting shares" has the same meaning as in section 790B.**]**

Textual Amendments

F866 S. 790C(4)(a) substituted (5.4.2016) by The Companies Act 2006 (Amendment of Part 21A) Regulations 2016 (S.I. 2016/136), regs. 1(2), **2(a)**

F867 S. 790C(7)(aa) inserted (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **78** (with reg. 80)

F868 S. 790C(7)(b) substituted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **6(2)** (with Sch. Pt. 1)

F869 Words in s. 790C(7)(b) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 11**; 2020 c. 1, Sch. 5 para. 1(1)

F870 S. 790C(8)(a) substituted (5.4.2016) by The Companies Act 2006 (Amendment of Part 21A) Regulations 2016 (S.I. 2016/136), regs. 1(2), **2(b)**

F871 Word in s. 790C(11) substituted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **6(3)** (with Sch. Pt. 1)

F872 S. 790C(15) inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **6(4)** (with Sch. Pt. 1)

Modifications etc. (not altering text)

C1113 Ss. 790C-790K applied (with modifications) by S.I. 2009/2436, **Sch. 1 para. 12A** (as inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, 33 (with **Sch. Pt. 3**))

C1114 S. 790C applied (with modifications) by S.I. 2009/1804, reg. 31B (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**) (as amended (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **24** (with Sch. Pt. 2) and as amended (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 3 para. 24**; 2020 c. 1, Sch. 5 para. 1(1))

C1115 S. 790C(7) amendment to earlier affecting provision S.I. 2009/1804, reg. 31B (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **79** (with reg. 80)

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CHAPTER 2

INFORMATION-GATHERING

Duty on companies

790D Company's duty to investigate and obtain information

(1) A company to which this Part applies must take reasonable steps—

(a) to find out if there is anyone who is a registrable person or a registrable relevant legal entity in relation to the company, and

(b) if so, to identify them.

(2) Without limiting subsection (1), a company to which this Part applies must give notice to anyone whom it knows or has reasonable cause to believe to be a registrable person or a registrable relevant legal entity in relation to it.

(3) The notice, if addressed to an individual, must require the addressee—

(a) to state whether or not he or she is a registrable person in relation to the company (within the meaning of this Part), and

(b) if so, to confirm or correct any particulars of his or hers that are included in the notice, and supply any that are missing.

(4) The notice, if addressed to a legal entity, must require the addressee—

(a) to state whether or not it is a registrable relevant legal entity in relation to the company (within the meaning of this Part), and

(b) if so, to confirm or correct any of its particulars that are included in the notice, and supply any that are missing.

(5) A company to which this Part applies may also give notice to a person under this section if it knows or has reasonable cause to believe that the person—

(a) knows the identity of someone who falls within subsection (6), or

(b) knows the identity of someone likely to have that knowledge.

(6) The persons who fall within this subsection are—

(a) any registrable person in relation to the company;

(b) any relevant legal entity in relation to the company;

(c) any entity which would be a relevant legal entity in relation to the company but for the fact that section 790C(6)(b) does not apply in respect of it.

(7) A notice under subsection (5) may require the addressee—

(a) to state whether or not the addressee knows the identity of—

(i) any person who falls within subsection (6), or

(ii) any person likely to have that knowledge, and

(b) if so, to supply any particulars of theirs that are within the addressee's knowledge, and state whether or not the particulars are being supplied with the knowledge of each of the persons concerned.

(8) A notice under this section must state that the addressee is to comply with the notice by no later than the end of the period of one month beginning with the date of the notice.

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(9) The Secretary of State may by regulations make further provision about the giving of notices under this section, including the form and content of any such notices and the manner in which they must be given.

(10) Regulations under subsection (9) are subject to negative resolution procedure.

(11) A company is not required to take steps or give notice under this section with respect to a registrable person or registrable relevant legal entity if—

(a) the company has already been informed of the person's status as a registrable person or registrable relevant legal entity in relation to it, and been supplied with all the particulars, and

(b) in the case of a registrable person, the information and particulars were provided either by the person concerned or with his or her knowledge.

(12) A person to whom a notice under subsection (5) is given is not required by that notice to disclose any information in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

(13) In this section—

(a) a reference to knowing the identity of a person includes knowing information from which that person can be identified, and

(b) " particulars " means—

(i) in the case of a registrable person or a registrable relevant legal entity, the required particulars (see section 790K), and

(ii) in any other case, any particulars that will allow the person to be contacted by the company.

Modifications etc. (not altering text)

C1113 Ss. 790C-790K applied (with modifications) by S.I. 2009/2436, **Sch. 1 para. 12A** (as inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, 33 (with **Sch. Pt. 3**))

C1116 Ss. 790D-790J applied (with modifications) by S.I. 2009/1804, **reg. 31C** (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

790E Company's duty to keep information up-to-date

(1) This section applies if particulars of a registrable person or registrable relevant legal entity are stated in a company's PSC register.

(2) The company must give notice to the person or entity if the company knows or has reasonable cause to believe that a relevant change has occurred.

(3) In the case of a registrable person, a "relevant change" occurs if—

(a) the person ceases to be a registrable person in relation to the company, or

(b) any other change occurs as a result of which the particulars stated for the person in the PSC register are incorrect or incomplete.

(4) In the case of a registrable relevant legal entity, a "relevant change" occurs if—

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the entity ceases to be a registrable relevant legal entity in relation to the company, or

(b) any other change occurs as a result of which the particulars stated for the entity in the PSC register are incorrect or incomplete.

(5) The company must give the notice

F873[as soon as reasonably practicable[F874, and

(a)]

(b) in any event before the end of the period of 14 days beginning with the earlier of the day] after it learns of the change [F875and the day after it] first has reasonable cause to believe that the change has occurred.

(6) The notice must require the addressee—

(a) to confirm whether or not the change has occurred, and

(b) if so—

(i) to state the date of the change, and

(ii) to confirm or correct the particulars included in the notice, and supply any that are missing from the notice.

(7) Subsections (8) to (10) of section 790D apply to notices under this section as to notices under that section.

(8) A company is not required to give notice under this section if—

(a) the company has already been informed of the relevant change, and

(b) in the case of a registrable person, that information was provided either by the person concerned or with his or her knowledge.

Textual Amendments

F873 Words in s. 790E(5) renumbered as s. 790E(5)(a) (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **7(a)** (with Sch. Pt. 1)

F874 S. 790E(5)(b) and word inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **7(b)** (with Sch. Pt. 1)

F875 Words in s. 790E(5) substituted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **7(c)** (with Sch. Pt. 1)

Modifications etc. (not altering text)

C1113 Ss. 790C-790K applied (with modifications) by S.I. 2009/2436, **Sch. 1 para. 12A** (as inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, 33 (with **Sch. Pt. 3**))

C1116 Ss. 790D-790J applied (with modifications) by S.I. 2009/1804, **reg. 31C** (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

790F Failure by company to comply with information duties

(1) If a company fails to comply with a duty under section 790D or 790E to take steps or give notice, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or a fine (or both);

(ii) in Scotland, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

Modifications etc. (not altering text)

C1113 Ss. 790C-790K applied (with modifications) by S.I. 2009/2436, **Sch. 1 para. 12A** (as inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, 33 (with **Sch. Pt. 3**))

C1116 Ss. 790D-790J applied (with modifications) by S.I. 2009/1804, **reg. 31C** (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

Duty on others

790G Duty to supply information

(1) This section applies to a person if—

(a) the person is a registrable person or a registrable relevant legal entity in relation to a company,

(b) the person knows that to be the case or ought reasonably to do so,

(c) the required particulars of the person are not stated in the company's PSC register,

(d) the person has not received notice from the company under section 790D(2), and

(e) the circumstances described in paragraphs (a) to (d) have continued for a period of at least one month.

(2) The person must—

(a) notify the company of the person's status (as a registrable person or registrable relevant legal entity) in relation to the company,

(b) state the date, to the best of the person's knowledge, on which the person acquired that status, and

(c) give the company the required particulars (see section 790K).

(3) The duty under subsection (2) must be complied with by the end of the period of one month beginning with the day on which all the conditions in subsection (1)(a) to (e) were first met with respect to the person.

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Modifications etc. (not altering text)

C1113 Ss. 790C-790K applied (with modifications) by S.I. 2009/2436, **Sch. 1 para. 12A** (as inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, 33 (with **Sch. Pt. 3**))

C1116 Ss. 790D-790J applied (with modifications) by S.I. 2009/1804, **reg. 31C** (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

790H Duty to update information

(1) This section applies to a person if—

(a) the required particulars of the person (whether a registrable person or a registrable relevant legal entity) are stated in a company's PSC register,

(b) a relevant change occurs,

(c) the person knows of the change or ought reasonably to do so,

(d) the company's PSC register has not been altered to reflect the change, and

(e) the person has not received notice from the company under section 790E by the end of the period of one month beginning with the day on which the change occurred.

(2) The person must—

(a) notify the company of the change,

(b) state the date on which it occurred, and

(c) give the company any information needed to update the PSC register.

(3) The duty under subsection (2) must be complied with by the later of—

(a) the end of the period of 2 months beginning with the day on which the change occurred, and

(b) the end of the period of one month beginning with the day on which the person discovered the change.

(4) " Relevant change " has the same meaning as in section 790E.

Modifications etc. (not altering text)

C1113 Ss. 790C-790K applied (with modifications) by S.I. 2009/2436, **Sch. 1 para. 12A** (as inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, 33 (with **Sch. Pt. 3**))

C1116 Ss. 790D-790J applied (with modifications) by S.I. 2009/1804, **reg. 31C** (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

Status: *Point in time view as at 31/12/2020.*
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Compliance

790I Enforcement of disclosure requirements

Schedule 1B contains provisions for when a person (whether an individual or a legal entity) fails to comply with a notice under section 790D or 790E or a duty under section 790G or 790H.

Modifications etc. (not altering text)

C1113 Ss. 790C-790K applied (with modifications) by S.I. 2009/2436, **Sch. 1 para. 12A** (as inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, 33 (with **Sch. Pt. 3**))

C1116 Ss. 790D-790J applied (with modifications) by S.I. 2009/1804, **reg. 31C** (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

Exemption from information and registration requirements

790J Power to make exemptions

(1) The Secretary of State may exempt a person (whether an individual or a legal entity) under this section.

(2) The effect of an exemption is—

(a) the person is not required to comply with any notice under section 790D(2) or 790E (but if a notice is received, the person must bring the existence of the exemption to the attention of the company that sent it),

(b) companies are not obliged to take steps or give notice under those sections to or with respect to that person,

(c) notices under section 790D(5) do not require anyone else to give any information about that person,

(d) the duties imposed by sections 790G and 790H do not apply to that person, and

(e) the person does not count for the purposes of section 790M as a registrable person or, as the case may be, a registrable relevant legal entity in relation to any company.

(3) The Secretary of State must not grant an exemption under this section unless the Secretary of State is satisfied that, having regard to any undertaking given by the person to be exempted, there are special reasons why that person should be exempted.

Modifications etc. (not altering text)

C1113 Ss. 790C-790K applied (with modifications) by S.I. 2009/2436, **Sch. 1 para. 12A** (as inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, 33 (with **Sch. Pt. 3**))

C1116 Ss. 790D-790J applied (with modifications) by S.I. 2009/1804, **reg. 31C** (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

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Required particulars

790K Required particulars

(1) The "required particulars" of an individual who is a registrable person are—

(a) name,
(b) a service address,
(c) the country or state (or part of the United Kingdom) in which the individual is usually resident,
(d) nationality,
(e) date of birth,
(f) usual residential address,
(g) the date on which the individual became a registrable person in relation to the company in question,
(h) the nature of his or her control over that company (see Schedule 1A), and
(i) if, in relation to that company, restrictions on using or disclosing any of the individual's PSC particulars are in force under regulations under section 790ZG, that fact.

(2) In the case of a person in relation to which this Part has effect by virtue of section 790C(12) as if the person were an individual, the "required particulars" are—

(a) name,
(b) principal office,
(c) the legal form of the person and the law by which it is governed,
(d) the date on which it became a registrable person in relation to the company in question, and
(e) the nature of its control over the company (see Schedule 1A).

(3) The "required particulars" of a registrable relevant legal entity are—

(a) corporate or firm name,
(b) registered or principal office,
(c) the legal form of the entity and the law by which it is governed,
(d) if applicable, the register of companies in which it is entered (including details of the state) and its registration number in that register,
(e) the date on which it became a registrable relevant legal entity in relation to the company in question, and
(f) the nature of its control over that company (see Schedule 1A).

(4) Section 163(2) (particulars of directors to be registered: individuals) applies for the purposes of subsection (1).

(5) The Secretary of State may by regulations make further provision about the particulars required by subsections (1)(h), (2)(e) and (3)(f).

(6) Regulations under subsection (5) are subject to negative resolution procedure.

Modifications etc. (not altering text)
C1113 Ss. 790C-790K applied (with modifications) by S.I. 2009/2436, **Sch. 1 para. 12A** (as inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, 33 (with **Sch. Pt. 3**))

C1117 S. 790K applied (with modifications) by S.I. 2009/1804, reg. 31D (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

790L Required particulars: power to amend

(1) The Secretary of State may by regulations amend section 790K so as to add to or remove from any of the lists of required particulars.

(2) Regulations under this section are subject to affirmative resolution procedure.

CHAPTER 3

REGISTER OF PEOPLE WITH SIGNIFICANT CONTROL

Modifications etc. (not altering text)

C1118 Pt. 21A Ch. 3 (ss. 790M-790VA) applied (with modifications) by S.I. 2009/2436, **Sch. 1 para. 12B** (as inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), reg. 33 (with **Sch. Pt. 3**))

790M Duty to keep register

(1) A company to which this Part applies must keep a register of people with significant control over the company.

(2) The required particulars of any individual with significant control over the company who is "registrable" in relation to the company must be entered in the register **[**[F876]before the end of the period of 14 days beginning with the day after all the required particulars of that individual are first confirmed**]**.

(3) The company must not enter any of the individual's particulars in the register until they have all been confirmed.

(4) Particulars of any individual with significant control over the company who is "non-registrable" in relation to the company must not be entered in the register.

[[F877](5) The required particulars of any entity that is a registrable relevant legal entity in relation to the company must be entered in the register before the end of the period of 14 days beginning with the day after the company first has all the required particulars of that entity.**]**

(6) If the company becomes aware of a relevant change (within the meaning of section 790E) with respect to a registrable person [F878]... whose particulars are stated in the register **[**[F879], the company must enter in the register—

(a) the changes to the required particulars resulting from the relevant change, and

(b) the date on which the relevant change occurred,

before the end of the period of 14 days beginning with the day after all of those changes and that date are first confirmed.**]**

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[If the company becomes aware of a relevant change (within the meaning of F880(6A) section 790E) with respect to a registrable relevant legal entity whose particulars are stated in the register, the company must enter in the register—

(a) the changes to the required particulars resulting from the relevant change, and

(b) the date on which the relevant change occurred,

before the end of the period of 14 days beginning with the day after the company first has details of all of those changes and that date.**]**

(7) The Secretary of State may by regulations require additional matters to be noted in a company's PSC register.

[If a company is required by regulations made under subsection (7) to note an additional F881(7A) matter in its PSC register, the company must note the additional matter before the end of the period of 14 days beginning with the day after the requirement arises.**]**

(8) Regulations under subsection (7) are subject to affirmative resolution procedure.

(9) A person's required particulars, **[**F882a change to such particulars and the date of any relevant change with respect to a person**]**, are considered for the purposes of this section to have been "confirmed" if—

(a) the person supplied or confirmed them to the company (whether voluntarily, pursuant to a duty imposed by this Part or otherwise),

(b) another person did so but with that person's knowledge, or

(c) they were included in a statement of initial significant control delivered to the registrar under section 9 by subscribers wishing to form the company.

(10) In the case of someone who was a registrable person or a registrable relevant legal entity in relation to the company on its incorporation—

(a) the date to be entered in the register as the date on which the individual became a registrable person, or the entity became a registrable relevant legal entity, is to be the date of incorporation, and

(b) in the case of a registrable person, that particular is deemed to have been "confirmed".

(11) For the purposes of this section—

(a) if a person's usual residential address is the same as his or her service address, the entry for him or her in the register may state that fact instead of repeating the address (but this does not apply in a case where the service address is stated to be "The company's registered office");

(b) nothing in section 126 (trusts not to be entered on register) affects what may be entered in a company's PSC register or is receivable by the registrar in relation to people with significant control over a company (even if they are members of the company);

(c) see section 790J (exemptions) for cases where a person does not count as a registrable person or a registrable relevant legal entity.

(12) If a company makes default in complying with this section, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

(14) A company to which this Part applies is not by virtue of anything done for the purposes of this section affected with notice of, or put upon inquiry as to, the rights of any person in relation to any shares or rights in or with respect to the company.

Textual Amendments

F876 Words in s. 790M(2) substituted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **8(2)** (with Sch. Pt. 1)

F877 S. 790M(5) substituted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **8(3)** (with Sch. Pt. 1)

F878 Words in s. 790M(6) omitted (26.6.2017) by virtue of The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **8(4)(a)** (with Sch. Pt. 1)

F879 Words in s. 790M(6) substituted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **8(4)(b)** (with Sch. Pt. 1)

F880 S. 790M(6A) inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **8(5)** (with Sch. Pt. 1)

F881 S. 790M(7A) inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **8(6)** (with Sch. Pt. 1)

F882 Words in s. 790M(9) substituted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **8(7)** (with Sch. Pt. 1)

Modifications etc. (not altering text)

C1119 S. 790M: power to modify conferred (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), **ss. 39(1)**, 40(e), 49(1) (with ss. 2(2), 5(2), 39(8)(9))

C1120 S. 790M applied (with modifications) by S.I. 2009/1804, reg. 31E (as inserted (6.4.2016 except for the modification of s. 790M(9)(c) which is in force at 30.6.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(2)(a)(3), 3, **Sch. 1**)

C1121 S. 790M amendment to earlier affecting provision S.I. 2009/1804, reg. 31E (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **25** (with Sch. Pt. 2)

C1122 S. 790M modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **13**

C1123 S. 790M(9)(c) modified (30.6.2016) by The European Public Limited-Liability Company (Register of People with Significant Control) Regulations 2016 (S.I. 2016/375), regs. 1(2), **5** (as amended (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **90(b)**; 2020 c. 1, Sch. 5 para. 1(1))

C1124 S. 790M(10) modified (30.6.2016) by The European Public Limited-Liability Company (Register of People with Significant Control) Regulations 2016 (S.I. 2016/375), regs. 1(2), **6** (as amended (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **91**; 2020 c. 1, Sch. 5 para. 1(1))

790N Register to be kept available for inspection

(1) A company's PSC register must be kept available for inspection—

(a) at its registered office, or

(b) at a place specified in regulations under section 1136.

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(2) A company must give notice to the registrar of the place where its PSC register is kept available for inspection and of any change in that place.

(3) No such notice is required if the register has, at all times since it came into existence, been kept available for inspection at the company's registered office.

(4) If a company makes default for 14 days in complying with subsection (2), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

Modifications etc. (not altering text)

C1125 S. 790N: power to modify conferred (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), **ss. 39(1)**, 40(e), 49(1) (with ss. 2(2), 5(2), 39(8)(9))

C1126 S. 790N applied (with modifications) by S.I. 2009/1804, reg. 31F (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

C1127 S. 790N(4) modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **14**

790O Rights to inspect and require copies

(1) A company's PSC register must be open to the inspection of any person without charge.

(2) Any person may require a copy of a company's PSC register, or any part of it, on payment of such fee as may be prescribed.

(3) A person seeking to exercise either of the rights conferred by this section must make a request to the company to that effect.

(4) The request must contain the following information—

(a) in the case of an individual, his or her name and address,

(b) in the case of an organisation, the name and address of an individual responsible for making the request on behalf of the organisation, and

(c) the purpose for which the information is to be used.

Modifications etc. (not altering text)

C1128 S. 790O applied (with modifications) by S.I. 2009/1804, reg. 31F (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

790P PSC register: response to request for inspection or copy

(1) Where a company receives a request under section 790O, it must within 5 working days either—

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(a) comply with the request, or
(b) apply to the court.

(2) If it applies to the court, it must notify the person making the request.

(3) If on an application under this section the court is satisfied that the inspection or copy is not sought for a proper purpose—
(a) it must direct the company not to comply with the request, and
(b) it may further order that the company's costs (in Scotland, expenses) on the application be paid in whole or in part by the person who made the request, even if that person is not a party to the application.

(4) If the court makes such a direction and it appears to the court that the company is or may be subject to other requests made for a similar purpose (whether made by the same person or different persons), it may direct that the company is not to comply with any such request.

The order must contain such provision as appears to the court appropriate to identify the requests to which it applies.

(5) If on an application under this section the court does not direct the company not to comply with the request, the company must comply with the request immediately upon the court giving its decision or, as the case may be, the proceedings being discontinued.

Modifications etc. (not altering text)
C1129 Ss. 790P-790S applied (with modifications) by S.I. 2009/1804, reg. 31G (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

790Q PSC register: refusal of inspection or default in providing copy

(1) If an inspection required under section 790O is refused or default is made in providing a copy required under that section, otherwise than in accordance with an order of the court, an offence is committed by—
(a) the company, and
(b) every officer of the company who is in default.

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

(3) In the case of any such refusal or default the court may by order compel an immediate inspection or, as the case may be, direct that the copy required be sent to the person requesting it.

Modifications etc. (not altering text)
C1129 Ss. 790P-790S applied (with modifications) by S.I. 2009/1804, reg. 31G (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

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790R PSC register: offences in connection with request for or disclosure of information

(1) It is an offence for a person knowingly or recklessly to make in a request under section 790O a statement that is misleading, false or deceptive in a material particular.

(2) It is an offence for a person in possession of information obtained by exercise of either of the rights conferred by that section—

(a) to do anything that results in the information being disclosed to another person, or

(b) to fail to do anything with the result that the information is disclosed to another person,

knowing, or having reason to suspect, that person may use the information for a purpose that is not a proper purpose.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine (or both);

(ii) in Scotland, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

Modifications etc. (not altering text)

C1129 Ss. 790P-790S applied (with modifications) by S.I. 2009/1804, reg. 31G (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

790S Information as to state of register

(1) Where a person inspects the PSC register, or the company provides a person with a copy of the register or any part of it, the company must inform the person of the most recent date (if any) on which alterations were made to the register and whether there are further alterations to be made.

(2) If a company fails to provide the information required under subsection (1), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

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Modifications etc. (not altering text)
C1129 Ss. 790P-790S applied (with modifications) by S.I. 2009/1804, reg. 31G (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

790T Protected information

(1) Section 790N and subsections (1) and (2) of section 790O are subject to—

(a) section 790ZF (protection of information as to usual residential address), and

(b) any provision of regulations made under section 790ZG (protection of material).

(2) Subsection (1) is not to be taken to affect the generality of the power conferred by virtue of section 790ZG(3)(f).

Modifications etc. (not altering text)
C1130S. 790T applied (with modifications) by S.I. 2009/1804, reg. 31H (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

790U Removal of entries from the register

(1) An entry relating to an individual who used to be a registrable person may be removed from the company's PSC register after the expiration of 10 years from the date on which the individual ceased to be a registrable person in relation to the company.

(2) An entry relating to an entity that used to be a registrable relevant legal entity may be removed from the company's PSC register after the expiration of 10 years from the date on which the entity ceased to be a registrable relevant legal entity in relation to the company.

790V Power of court to rectify register

(1) If—

(a) the name of any person is, without sufficient cause, entered in or omitted from a company's PSC register as a registrable person or registrable relevant legal entity, or

(b) default is made or unnecessary delay takes place in entering on the PSC register the fact that a person has ceased to be a registrable person or registrable relevant legal entity,

the person aggrieved or any other interested party may apply to the court for rectification of the register.

(2) The court may either refuse the application or may order rectification of the register and payment by the company of any damages sustained by any party aggrieved.

(3) On such an application, the court may—

(a) decide any question as to whether the name of any person who is a party to the application should or should not be entered in or omitted from the register, and

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(b) more generally, decide any question necessary or expedient to be decided for rectification of the register.

(4) In the case of a company required by this Act to send information stated in its PSC register to the registrar of companies, the court, when making an order for rectification of the register, must by its order direct notice of the rectification to be given to the registrar.

(5) The reference in this section to "any other interested party" is to—

(a) any member of the company, and

(b) any other person who is a registrable person or a registrable relevant legal entity in relation to the company.

Modifications etc. (not altering text)

C1131 S. 790V applied (with modifications) by S.I. 2009/1804, reg. 31J (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

[F883 790VA Notification of changes to the registrar

(1) Subsection (2) applies where a company—

(a) enters required particulars in its PSC register,

(b) alters required particulars in its PSC register, or

(c) notes in its PSC register an additional matter that is required to be noted by regulations under section 790M(7).

(2) The company must give notice to the registrar of the change made to its PSC register, and the date on which the change was made, before the end of the period of 14 days beginning with the day after it makes the change.

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

(a) the company, and

(b) every officer of the company who is in default.

(4) For the purpose of subsection (3) a shadow director is treated as an officer of the company.

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

Textual Amendments

F883 S. 790VA inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **9** (with Sch. Pt. 1)

Modifications etc. (not altering text)

C1132 S. 790VA: power to modify conferred (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), **ss. 39(1)**, 40(e), 49(1) (with ss. 2(2), 5(2), 39(8)(9))

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C1133 S. 790VA applied (with modifications) by S.I. 2009/1804, **reg. 31JA** (as inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), reg. 26 (with **Sch. Pt. 2**))

C1134 S. 790VA(2) modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **15**

CHAPTER 4

ALTERNATIVE METHOD OF RECORD-KEEPING

790W Introductory

(1) This Chapter sets out rules allowing private companies to keep information on the register kept by the registrar instead of entering it in their PSC register.

(2) The register kept by the registrar (see section 1080) is referred to in this Chapter as "the central register".

(3) Chapter 3 must be read with this Chapter.

(4) Nothing in this Chapter affects the duties imposed by Chapter 2.

(5) Where an election under section 790X is in force in respect of a company, references in Chapter 2 to the company's PSC register are to be read as references to the central register.

Modifications etc. (not altering text)

C1135 Ss. 790W-790ZD applied (with modifications) by S.I. 2009/1804, reg. 31K (as inserted (30.6.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(2)(b), 3, **Sch. 1**)

790X Right to make an election

(1) An election may be made under this section—

(a) by the subscribers wishing to form a private company under this Act, or

(b) by the private company itself once it is formed and registered.

(2) The election is of no effect unless—

(a) notice of the intention to make the election was given to each eligible person at least 14 days before the day on which the election was made, and

(b) no objection was received by the subscribers or, as the case may be, the company from any eligible person within that notice period.

(3) A person is an "eligible person" if—

(a) in a case of an election by the subscribers wishing to form a private company, the person's particulars would, but for the election, be required to be entered in the company's PSC register on its incorporation, and

(b) in the case of an election by the company itself—

(i) the person is a registrable person or a registrable relevant legal entity in relation to the company, and

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(ii) the person's particulars are stated in the company's PSC register.

(4) An election under this section is made by giving notice of election to the registrar.

(5) If the notice is given by subscribers wishing to form a private company—

(a) it must be given when the documents required to be delivered under section 9 are delivered to the registrar, and

(b) it must be accompanied by a statement confirming that no objection was received as mentioned in subsection (2).

(6) If the notice is given by the company, it must be accompanied by—

(a) a statement confirming that no objection was received as mentioned in subsection (2), and

(b) a statement containing all the information that is required to be contained in the company's PSC register as at the date of the notice in respect of matters that are current as at that date.

(7) The company must where necessary update the statement sent under subsection (6)(b) to ensure that the final version delivered to the registrar contains all the information that is required to be contained in the company's PSC register as at the time immediately before the election takes effect (see section 790Y) in respect of matters that are current as at that time.

(8) The obligation in subsection (7) to update the statement includes an obligation to rectify it (where necessary) in consequence of the company's PSC register being rectified (whether before or after the election takes effect).

(9) If default is made in complying with subsection (7), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

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

(11) A reference in this Chapter to matters that are current as at a given date or time is a reference to—

(a) persons who are a registrable person or registrable relevant legal entity in relation to the company as at that date or time and whose particulars are required to be contained in the company's PSC register as at that date or time, and

(b) any other matters that are current as at that date or time.

Modifications etc. (not altering text)

C1135 Ss. 790W-790ZD applied (with modifications) by S.I. 2009/1804, reg. 31K (as inserted (30.6.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(2)(b), 3, **Sch. 1**)

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790Y Effective date of election

(1) An election made under section 790X takes effect when the notice of election is registered by the registrar.

(2) The election remains in force until either—

(a) the company ceases to be a private company, or

(b) a notice of withdrawal sent by the company under section 790ZD is registered by the registrar,

whichever occurs first.

Modifications etc. (not altering text)

C1135 Ss. 790W-790ZD applied (with modifications) by S.I. 2009/1804, reg. 31K (as inserted (30.6.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(2)(b), 3, **Sch. 1**)

790Z Effect of election on obligations under Chapter 3

(1) The effect of an election under section 790X on a company's obligations under Chapter 3 is as follows.

(2) The company's obligation to maintain a PSC register does not apply with respect to the period when the election is in force.

(3) This means that, during that period—

(a) the company must continue to keep a PSC register in accordance with Chapter 3 (a "historic" register) containing all the information that was required to be stated in that register as at the time immediately before the election took effect, but

(b) the company does not have to update that register to reflect any changes that occur after that time.

(4) The provisions of Chapter 3 (including the rights to inspect or require copies of the PSC register) continue to apply to the historic register during the period when the election is in force.

(5) The company must place a note in its historic register—

(a) stating that an election under section 790X is in force,

(b) recording when that election took effect, and

(c) indicating that up-to-date information about people with significant control over the company is available for public inspection on the central register.

(6) Subsections (12) and (13) of section 790M apply if a company makes default in complying with subsection (5) as they apply if a company makes default in complying with that section.

(7) The obligations under this section with respect to a historic register do not apply in a case where the election was made by subscribers wishing to form a private company.

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Modifications etc. (not altering text)
C1135 Ss. 790W-790ZD applied (with modifications) by S.I. 2009/1804, reg. 31K (as inserted (30.6.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(2)(b), 3, **Sch. 1**)

790ZA Duty to notify registrar of changes

(1) The duty under subsection (2) applies during the period when an election under section 790X is in force.

(2) The company must deliver to the registrar any information that the company would during that period have been obliged under Chapter 3 to enter in its PSC register, had the election not been in force.

(3) The information must be delivered as soon as reasonably practicable after the company becomes aware of it and, in any event, no later than the time by which the company would have been required to enter the information in its PSC register.

(4) If default is made in complying with this section, an offence is committed by—
(a) the company, and
(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

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

Modifications etc. (not altering text)
C1135 Ss. 790W-790ZD applied (with modifications) by S.I. 2009/1804, reg. 31K (as inserted (30.6.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(2)(b), 3, **Sch. 1**)

790ZB Information as to state of central register

(1) When a person inspects or requests a copy of material on the central register relating to a company in respect of which an election under section 790X is in force, the person may ask the company to confirm that all information that the company is required to deliver to the registrar under this Chapter has been delivered.

(2) If a company fails to respond to a request under subsection (1), an offence is committed by—
(a) the company, and
(b) every officer of the company who is in default.

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

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Modifications etc. (not altering text)

C1135 Ss. 790W-790ZD applied (with modifications) by S.I. 2009/1804, reg. 31K (as inserted (30.6.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(2)(b), 3, **Sch. 1**)

790ZC Power of court to order company to remedy default or delay

(1) This section applies if—

(a) the name of a person is without sufficient cause included in, or omitted from, information that a company delivers to the registrar under this Chapter concerning persons who are a registrable person or a registrable relevant legal entity in relation to the company, or

(b) default is made or unnecessary delay takes place in informing the registrar under this Chapter that a person—

(i) has become a registrable person or a registrable relevant legal entity in relation to the company, or

(ii) has ceased to be a registrable person or a registrable relevant legal entity in relation to it.

(2) The person aggrieved, or any other interested party, may apply to the court for an order requiring the company to deliver to the registrar the information (or statements) necessary to rectify the position.

(3) The court may either refuse the application or may make the order and order the company to pay any damages sustained by any party aggrieved.

(4) On such an application the court may decide—

(a) any question as to whether the name of any person who is a party to the application should or should not be included in or omitted from information delivered to the registrar under this Chapter about persons who are a registrable person or a registrable relevant legal entity in relation to the company, and

(b) any question necessary or expedient to be decided for rectifying the position.

(5) Nothing in this section affects a person's rights under section 1095 or 1096 (rectification of register on application to registrar or under court order).

(6) The reference in this section to "any other interested party" is to—

(a) any member of the company, and

(b) any other person who is a registrable person or a registrable relevant legal entity in relation to the company.

Modifications etc. (not altering text)

C1135 Ss. 790W-790ZD applied (with modifications) by S.I. 2009/1804, reg. 31K (as inserted (30.6.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(2)(b), 3, **Sch. 1**)

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790ZD Withdrawing the election

(1) A company may withdraw an election made by or in respect of it under section 790X.

(2) Withdrawal is achieved by giving notice of withdrawal to the registrar.

(3) The withdrawal takes effect when the notice is registered by the registrar.

(4) The effect of withdrawal is that the company's obligation under Chapter 3 to maintain a PSC register applies from then on with respect to the period going forward.

(5) This means that, when the withdrawal takes effect—

(a) the company must enter in its PSC register all the information that is required to be contained in that register in respect of matters that are current as at that time,

(b) the company must also retain in its register all the information that it was required under section 790Z(3)(a) to keep in a historic register while the election was in force, but

(c) the company is not required to enter in its register information relating to the period when the election was in force that is no longer current.

(6) The company must place a note in its PSC register—

(a) stating that the election under section 790X has been withdrawn,

(b) recording when that withdrawal took effect, and

(c) indicating that information about people with significant control over the company relating to the period when the election was in force that is no longer current is available for public inspection on the central register.

(7) Subsections (12) and (13) of section 790M apply if a company makes default in complying with subsection (6) as they apply if a company makes default in complying with that section.

Modifications etc. (not altering text)

C1135 Ss. 790W-790ZD applied (with modifications) by S.I. 2009/1804, reg. 31K (as inserted (30.6.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(2)(b), 3, **Sch. 1**)

790ZE Power to extend option to public companies

(1) The Secretary of State may by regulations amend this Act—

(a) to extend this Chapter (with or without modification) to public companies or public companies of a class specified in the regulations, and

(b) to make such other amendments as the Secretary of State thinks fit in consequence of that extension.

(2) Regulations under this section are subject to affirmative resolution procedure.

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CHAPTER 5

PROTECTION FROM DISCLOSURE

790ZF Protection of information as to usual residential address

(1) The provisions of sections 240 to 244 (directors' residential addresses: protection from disclosure) apply to information within subsection (2) as to protected information within the meaning of those sections.

(2) The information within this subsection is—

(a) information as to the usual residential address of a person with significant control over a company, and

(b) the information that such a person's service address is his or her usual residential address.

(3) Subsection (1) does not apply to information relating to a person if an application under regulations made under section 790ZG has been granted with respect to that information and not been revoked.

Modifications etc. (not altering text)

C1136 S. 790ZF applied (with modifications) by S.I. 2009/1804, **reg. 31L** (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

C1137 S. 790ZF applied (with modifications) by S.I. 2009/2436, **Sch. 1 para. 12C** (as inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, 33 (with **Sch. Pt. 3**))

790ZG Power to make regulations protecting material

(1) The Secretary of State may by regulations make provision requiring the registrar and the company to refrain from using or disclosing PSC particulars of a prescribed kind (or to refrain from doing so except in prescribed circumstances) where an application is made to the registrar requesting them to refrain from so doing.

(2) "PSC particulars" are particulars of a person with significant control over the company—

(a) including a person who used to be such a person, but

(b) excluding any person in relation to which this Part has effect by virtue of section 790C(12) as if the person were an individual.

(3) Regulations under this section may make provision as to—

(a) who may make an application,

(b) the grounds on which an application may be made,

(c) the information to be included in and documents to accompany an application,

(d) how an application is to be determined,

(e) the duration of and procedures for revoking the restrictions on use and disclosure,

(f) the operation of sections 790N to 790S in cases where an application is made, and

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(g) the charging of fees by the registrar for disclosing PSC particulars where the regulations permit disclosure, by way of exception, in prescribed circumstances.

(4) Provision under subsection (3)(d) and (e) may in particular—

(a) confer a discretion on the registrar;

(b) provide for a question to be referred to a person other than the registrar for the purposes of determining the application or revoking the restrictions.

(5) Regulations under this section are subject to affirmative resolution procedure.

(6) Nothing in this section or in regulations made under it affects the use or disclosure of particulars of a person in any other capacity (for example, the use or disclosure of particulars of a person in that person's capacity as a member or director of the company).**]**

Modifications etc. (not altering text)

C1138S. 790ZG applied (with modifications) by S.I. 2009/2436, Sch. 1 para. 12C (as inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **33** (with Sch. Pt. 3))

C1139S. 790ZG(2) applied (with modifications) by S.I. 2009/1804, reg. 31L (as inserted (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), regs. 1(3), 3, **Sch. 1**)

PART 22

INFORMATION ABOUT INTERESTS IN A COMPANY'S SHARES

Modifications etc. (not altering text)

C1140 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

Introductory

791 Companies to which this Part applies

This Part applies only to public companies.

Commencement Information

I258 S. 791 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

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792 Shares to which this Part applies

(1) References in this Part to a company's shares are to the company's issued shares of a class carrying rights to vote in all circumstances at general meetings of the company (including any shares held as treasury shares).

(2) The temporary suspension of voting rights in respect of any shares does not affect the application of this Part in relation to interests in those or any other shares.

Commencement Information

I259 S. 792 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

Notice requiring information about interests in shares

793 Notice by company requiring information about interests in its shares

(1) A public company may give notice under this section to any person whom the company knows or has reasonable cause to believe—

(a) to be interested in the company's shares, or

(b) to have been so interested at any time during the three years immediately preceding the date on which the notice is issued.

(2) The notice may require the person—

(a) to confirm that fact or (as the case may be) to state whether or not it is the case, and

(b) if he holds, or has during that time held, any such interest, to give such further information as may be required in accordance with the following provisions of this section.

(3) The notice may require the person to whom it is addressed to give particulars of his own present or past interest in the company's shares (held by him at any time during the three year period mentioned in subsection (1)(b)).

(4) The notice may require the person to whom it is addressed, where—

(a) his interest is a present interest and another interest in the shares subsists, or

(b) another interest in the shares subsisted during that three year period at a time when his interest subsisted,

to give, so far as lies within his knowledge, such particulars with respect to that other interest as may be required by the notice.

(5) The particulars referred to in subsections (3) and (4) include—

(a) the identity of persons interested in the shares in question, and

(b) whether persons interested in the same shares are or were parties to—

(i) an agreement to which section 824 applies (certain share acquisition agreements), or

(ii) an agreement or arrangement relating to the exercise of any rights conferred by the holding of the shares.

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(6) The notice may require the person to whom it is addressed, where his interest is a past interest, to give (so far as lies within his knowledge) particulars of the identity of the person who held that interest immediately upon his ceasing to hold it.

(7) The information required by the notice must be given within such reasonable time as may be specified in the notice.

Commencement Information

I260 S. 793 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

794 Notice requiring information: order imposing restrictions on shares

(1) Where—

(a) a notice under section 793 (notice requiring information about interests in company's shares) is served by a company on a person who is or was interested in shares in the company, and

(b) that person fails to give the company the information required by the notice within the time specified in it,

the company may apply to the court for an order directing that the shares in question be subject to restrictions.

For the effect of such an order see section 797.

(2) If the court is satisfied that such an order may unfairly affect the rights of third parties in respect of the shares, the court may, for the purpose of protecting those rights and subject to such terms as it thinks fit, direct that such acts by such persons or descriptions of persons and for such purposes as may be set out in the order shall not constitute a breach of the restrictions.

(3) On an application under this section the court may make an interim order.

Any such order may be made unconditionally or on such terms as the court thinks fit.

(4) Sections 798 to 802 make further provision about orders under this section.

Commencement Information

I261 S. 794 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

795 Notice requiring information: offences

(1) A person who—

(a) fails to comply with a notice under section 793 (notice requiring information about interests in company's shares), or

(b) in purported compliance with such a notice—

(i) makes a statement that he knows to be false in a material particular, or

(ii) recklessly makes a statement that is false in a material particular,

commits an offence.

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(2) A person does not commit an offence under subsection (1)(a) if he proves that the requirement to give information was frivolous or vexatious.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

Commencement Information

I262 S. 795 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

796 Notice requiring information: persons exempted from obligation to comply

(1) A person is not obliged to comply with a notice under section 793 (notice requiring information about interests in company's shares) if he is for the time being exempted by the Secretary of State from the operation of that section.

(2) The Secretary of State must not grant any such exemption unless—

(a) he has consulted the Governor of the Bank of England, and

(b) he (the Secretary of State) is satisfied that, having regard to any undertaking given by the person in question with respect to any interest held or to be held by him in any shares, there are special reasons why that person should not be subject to the obligations imposed by that section.

Commencement Information

I263 S. 796 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

Orders imposing restrictions on shares

797 Consequences of order imposing restrictions

(1) The effect of an order under section 794 that shares are subject to restrictions is as follows—

(a) any transfer of the shares is void;

(b) no voting rights are exercisable in respect of the shares;

(c) no further shares may be issued in right of the shares or in pursuance of an offer made to their holder;

(d) except in a liquidation, no payment may be made of sums due from the company on the shares, whether in respect of capital or otherwise.

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(2) Where shares are subject to the restriction in subsection (1)(a), an agreement to transfer the shares is void.

This does not apply to an agreement to transfer the shares on the making of an order under section 800 made by virtue of subsection (3)(b) (removal of restrictions in case of court-approved transfer).

(3) Where shares are subject to the restriction in subsection (1)(c) or (d), an agreement to transfer any right to be issued with other shares in right of those shares, or to receive any payment on them (otherwise than in a liquidation), is void.

This does not apply to an agreement to transfer any such right on the making of an order under section 800 made by virtue of subsection (3)(b) (removal of restrictions in case of court-approved transfer).

(4) The provisions of this section are subject—

(a) to any directions under section 794(2) or section 799(3) (directions for protection of third parties), and

(b) in the case of an interim order under section 794(3), to the terms of the order.

Commencement Information

I264 S. 797 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

798 Penalty for attempted evasion of restrictions

(1) This section applies where shares are subject to restrictions by virtue of an order under section 794.

(2) A person commits an offence if he—

(a) exercises or purports to exercise any right—

(i) to dispose of shares that to his knowledge, are for the time being subject to restrictions, or

(ii) to dispose of any right to be issued with any such shares, or

(b) votes in respect of any such shares (whether as holder or proxy), or appoints a proxy to vote in respect of them, or

(c) being the holder of any such shares, fails to notify of their being subject to those restrictions a person whom he does not know to be aware of that fact but does know to be entitled (apart from the restrictions) to vote in respect of those shares whether as holder or as proxy, or

(d) being the holder of any such shares, or being entitled to a right to be issued with other shares in right of them, or to receive any payment on them (otherwise than in a liquidation), enters into an agreement which is void under section 797(2) or (3).

(3) If shares in a company are issued in contravention of the restrictions, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

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

(5) The provisions of this section are subject—
(a) to any directions under—
section 794(2) (directions for protection of third parties), or
section 799 or 800 (relaxation or removal of restrictions), and
(b) in the case of an interim order under section 794(3), to the terms of the order.

Commencement Information
I265 S. 798 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

799 Relaxation of restrictions

(1) An application may be made to the court on the ground that an order directing that shares shall be subject to restrictions unfairly affects the rights of third parties in respect of the shares.

(2) An application for an order under this section may be made by the company or by any person aggrieved.

(3) If the court is satisfied that the application is well-founded, it may, for the purpose of protecting the rights of third parties in respect of the shares, and subject to such terms as it thinks fit, direct that such acts by such persons or descriptions of persons and for such purposes as may be set out in the order do not constitute a breach of the restrictions.

Commencement Information
I266 S. 799 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

800 Removal of restrictions

(1) An application may be made to the court for an order directing that the shares shall cease to be subject to restrictions.

(2) An application for an order under this section may be made by the company or by any person aggrieved.

(3) The court must not make an order under this section unless—
(a) it is satisfied that the relevant facts about the shares have been disclosed to the company and no unfair advantage has accrued to any person as a result of the earlier failure to make that disclosure, or
(b) the shares are to be transferred for valuable consideration and the court approves the transfer.

(4) An order under this section made by virtue of subsection (3)(b) may continue, in whole or in part, the restrictions mentioned in section 797(1)(c) and (d) (restrictions on issue

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of further shares or making of payments) so far as they relate to a right acquired or offer made before the transfer.

(5) Where any restrictions continue in force under subsection (4)—

(a) an application may be made under this section for an order directing that the shares shall cease to be subject to those restrictions, and

(b) subsection (3) does not apply in relation to the making of such an order.

Commencement Information

I267 S. 800 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

801 Order for sale of shares

(1) The court may order that the shares subject to restrictions be sold, subject to the court's approval as to the sale.

(2) An application for an order under subsection (1) may only be made by the company.

(3) Where the court has made an order under this section, it may make such further order relating to the sale or transfer of the shares as it thinks fit.

(4) An application for an order under subsection (3) may be made—

(a) by the company,

(b) by the person appointed by or in pursuance of the order to effect the sale, or

(c) by any person interested in the shares.

(5) On making an order under subsection (1) or (3) the court may order that the applicant's costs (in Scotland, expenses) be paid out of the proceeds of sale.

Commencement Information

I268 S. 801 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

802 Application of proceeds of sale under court order

(1) Where shares are sold in pursuance of an order of the court under section 801, the proceeds of the sale, less the costs of the sale, must be paid into court for the benefit of the persons who are beneficially interested in the shares.

(2) A person who is beneficially interested in the shares may apply to the court for the whole or part of those proceeds to be paid to him.

(3) On such an application the court shall order the payment to the applicant of—

(a) the whole of the proceeds of sale together with any interest on them, or

(b) if another person had a beneficial interest in the shares at the time of their sale, such proportion of the proceeds and interest as the value of the applicant's interest in the shares bears to the total value of the shares.

This is subject to the following qualification.

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(4) If the court has ordered under section 801(5) that the costs (in Scotland, expenses) of an applicant under that section are to be paid out of the proceeds of sale, the applicant is entitled to payment of his costs (or expenses) out of those proceeds before any person interested in the shares receives any part of those proceeds.

Commencement Information

I269 S. 802 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

Power of members to require company to act

803 Power of members to require company to act

(1) The members of a company may require it to exercise its powers under section 793 (notice requiring information about interests in shares).

(2) A company is required to do so once it has received requests (to the same effect) from members of the company holding at least 10% of such of the paid-up capital of the company as carries a right to vote at general meetings of the company (excluding any voting rights attached to any shares in the company held as treasury shares).

(3) A request—

(a) may be in hard copy form or in electronic form,

(b) must—

(i) state that the company is requested to exercise its powers under section 793,

(ii) specify the manner in which the company is requested to act, and

(iii) give reasonable grounds for requiring the company to exercise those powers in the manner specified, and

(c) must be authenticated by the person or persons making it.

Commencement Information

I270 S. 803 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

804 Duty of company to comply with requirement

(1) A company that is required under section 803 to exercise its powers under section 793 (notice requiring information about interests in company's shares) must exercise those powers in the manner specified in the requests.

(2) If default is made in complying with subsection (1) an offence is committed by every officer of the company who is in default.

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

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

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

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Commencement Information

I271 S. 804 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

805 Report to members on outcome of investigation

(1) On the conclusion of an investigation carried out by a company in pursuance of a requirement under section 803 the company must cause a report of the information received in pursuance of the investigation to be prepared.

The report must be made available for inspection within a reasonable period (not more than 15 days) after the conclusion of the investigation.

(2) Where—

(a) a company undertakes an investigation in pursuance of a requirement under section 803, and

(b) the investigation is not concluded within three months after the date on which the company became subject to the requirement,

the company must cause to be prepared in respect of that period, and in respect of each succeeding period of three months ending before the conclusion of the investigation, an interim report of the information received during that period in pursuance of the investigation.

(3) Each such report must be made available for inspection within a reasonable period (not more than 15 days) after the end of the period to which it relates.

(4) The reports must be retained by the company for at least six years from the date on which they are first made available for inspection and must be kept available for inspection during that time—

(a) at the company's registered office, or

(b) at a place specified in regulations under section 1136.

(5) The company must give notice to the registrar—

(a) of the place at which the reports are kept available for inspection, and

(b) of any change in that place,

unless they have at all times been kept at the company's registered office.

(6) The company must within three days of making any report prepared under this section available for inspection, notify the members who made the requests under section 803 where the report is so available.

(7) For the purposes of this section an investigation carried out by a company in pursuance of a requirement under section 803 is concluded when—

(a) the company has made all such inquiries as are necessary or expedient for the purposes of the requirement, and

(b) in the case of each such inquiry—

(i) a response has been received by the company, or

(ii) the time allowed for a response has elapsed.

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Modifications etc. (not altering text)

C1141 S. 805 modified (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **11(a)(xi)**

Commencement Information

I272 S. 805 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

806 Report to members: offences

(1) If default is made for 14 days in complying with section 805(5) (notice to registrar of place at which reports made available for inspection) an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

(3) If default is made in complying with any other provision of section 805 (report to members on outcome of investigation), an offence is committed by every officer of the company who is in default.

(4) A person guilty of an offence under subsection (3) is liable—

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

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

Commencement Information

I273 S. 806 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

807 Right to inspect and request copy of reports

(1) Any report prepared under section 805 must be open to inspection by any person without charge.

(2) Any person is entitled, on request and on payment of such fee as may be prescribed, to be provided with a copy of any such report or any part of it.

The copy must be provided within ten days after the request is received by the company.

(3) If an inspection required under subsection (1) is refused, or default is made in complying with subsection (2), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

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(5) In the case of any such refusal or default the court may by order compel an immediate inspection or, as the case may be, direct that the copy required be sent to the person requiring it.

Commencement Information

I274 S. 807 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

Register of interests disclosed

808 Register of interests disclosed

(1) The company must keep a register of information received by it in pursuance of a requirement imposed under section 793 (notice requiring information about interests in company's shares).

(2) A company which receives any such information must, within three days of the receipt, enter in the register—

(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.

(3) The information must be entered against the name of the present holder of the shares in question or, if there is no present holder or the present holder is not known, against the name of the person holding the interest.

(4) The register must be made up so that the entries against the names entered in it appear in chronological order.

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

(a) the company, and

(b) every officer of the company who is in default.

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

(7) The company is not by virtue of anything done for the purposes of this section affected with notice of, or put upon inquiry as to, the rights of any person in relation to any shares.

Commencement Information

I275 S. 808 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

809 Register to be kept available for inspection

(1) The register kept under section 808 (register of interests disclosed) must be kept available for inspection—

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(a) at the company's registered office, or

(b) at a place specified in regulations under section 1136.

(2) A company must give notice to the registrar of companies of the place where the register is kept available for inspection and of any change in that place.

(3) No such notice is required if the register has at all times been kept available for inspection at the company's registered office.

(4) If default is made in complying with subsection (1), or a company makes default for 14 days in complying with subsection (2), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

Modifications etc. (not altering text)

C1142 S. 809 modified (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **11(a)(xii)**

Commencement Information

I276 S. 809 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

810 Associated index

(1) Unless the register kept under section 808 (register of interests disclosed) is kept in such a form as itself to constitute an index, the company must keep an index of the names entered in it.

(2) The company must make any necessary entry or alteration in the index within ten days after the date on which any entry or alteration is made in the register.

(3) The index must contain, in respect of each name, a sufficient indication to enable the information entered against it to be readily found.

(4) The index must be at all times kept available for inspection at the same place as the register.

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

(a) the company, and

(b) every officer of the company who is in default.

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

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Commencement Information

I277 S. 810 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

811 Rights to inspect and require copy of entries

(1) The register required to be kept under section 808 (register of interests disclosed), and any associated index, must be open to inspection by any person without charge.

(2) Any person is entitled, on request and on payment of such fee as may be prescribed, to be provided with a copy of any entry in the register.

(3) A person seeking to exercise either of the rights conferred by this section must make a request to the company to that effect.

(4) The request must contain the following information—

(a) in the case of an individual, his name and address;

(b) in the case of an organisation, the name and address of an individual responsible for making the request on behalf of the organisation;

(c) the purpose for which the information is to be used; and

(d) whether the information will be disclosed to any other person, and if so—

(i) where that person is an individual, his name and address,

(ii) where that person is an organisation, the name and address of an individual responsible for receiving the information on its behalf, and

(iii) the purpose for which the information is to be used by that person.

Commencement Information

I278 S. 811 wholly in force at 6.4.2008; s. 811 not in force at Royal Assent, see s. 1300; s. 811(1)-(3) in force at 20.1.2007 by S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 811(4) in force at 6.4.2008 by S.I. 2007/3195, **art. 3(1)(j)** (with savings in arts. 7, 12, and with savings in Sch. 4 para. 32)

812 Court supervision of purpose for which rights may be exercised

(1) Where a company receives a request under section 811 (register of interests disclosed: right to inspect and require copy), it must—

(a) comply with the request if it is satisfied that it is made for a proper purpose, and

(b) refuse the request if it is not so satisfied.

(2) If the company refuses the request, it must inform the person making the request, stating the reason why it is not satisfied.

(3) A person whose request is refused may apply to the court.

(4) If an application is made to the court—

(a) the person who made the request must notify the company, and

(b) the company must use its best endeavours to notify any persons whose details would be disclosed if the company were required to comply with the request.

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(5) If the court is not satisfied that the inspection or copy is sought for a proper purpose, it shall direct the company not to comply with the request.

(6) If the court makes such a direction and it appears to the court that the company is or may be subject to other requests made for a similar purpose (whether made by the same person or different persons), it may direct that the company is not to comply with any such request.

The order must contain such provision as appears to the court appropriate to identify the requests to which it applies.

(7) If the court does not direct the company not to comply with the request, the company must comply with the request immediately upon the court giving its decision or, as the case may be, the proceedings being discontinued.

813 Register of interests disclosed: refusal of inspection or default in providing copy

(1) If an inspection required under section 811 (register of interests disclosed: right to inspect and require copy) is refused or default is made in providing a copy required under that section, otherwise than in accordance with **[**[F884]section 812**]**, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

(3) In the case of any such refusal or default the court may by order compel an immediate inspection or, as the case may be, direct that the copy required be sent to the person requesting it.

Textual Amendments

F884 Words in s. 813(1) substituted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 83**, 164(3)(g)(i)

Commencement Information

I279 S. 813 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

814 Register of interests disclosed: offences in connection with request for or disclosure of information

(1) It is an offence for a person knowingly or recklessly to make in a request under section 811 (register of interests disclosed: right to inspect or require copy) a statement that is misleading, false or deceptive in a material particular.

(2) It is an offence for a person in possession of information obtained by exercise of either of the rights conferred by that section—

(a) to do anything that results in the information being disclosed to another person, or

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(b) to fail to do anything with the result that the information is disclosed to another person,

knowing, or having reason to suspect, that person may use the information for a purpose that is not a proper purpose.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

815 Entries not to be removed from register

(1) Entries in the register kept under section 808 (register of interests disclosed) must not be deleted except in accordance with—

section 816 (old entries), or

section 817 (incorrect entry relating to third party).

(2) If an entry is deleted in contravention of subsection (1), the company must restore it as soon as reasonably practicable.

(3) If default is made in complying with subsection (1) or (2), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention of subsection (2), a daily default fine not exceeding one-tenth of level 3 on the standard scale.

Commencement Information

I280 S. 815 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

816 Removal of entries from register: old entries

A company may remove an entry from the register kept under section 808 (register of interests disclosed) if more than six years have elapsed since the entry was made.

Commencement Information

I281 S. 816 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

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817 Removal of entries from register: incorrect entry relating to third party

(1) This section applies where in pursuance of an obligation imposed by a notice under section 793 (notice requiring information about interests in company's shares) a person gives to a company the name and address of another person as being interested in shares in the company.

(2) That other person may apply to the company for the removal of the entry from the register.

(3) If the company is satisfied that the information in pursuance of which the entry was made is incorrect, it shall remove the entry.

(4) If an application under subsection (3) is refused, the applicant may apply to the court for an order directing the company to remove the entry in question from the register.

The court may make such an order if it thinks fit.

Commencement Information

I282 S. 817 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

818 Adjustment of entry relating to share acquisition agreement

(1) If a person who is identified in the register kept by a company under section 808 (register of interests disclosed) as being a party to an agreement to which section 824 applies (certain share acquisition agreements) ceases to be a party to the agreement, he may apply to the company for the inclusion of that information in the register.

(2) If the company is satisfied that he has ceased to be a party to the agreement, it shall record that information (if not already recorded) in every place where his name appears in the register as a party to the agreement.

(3) If an application under this section is refused (otherwise than on the ground that the information has already been recorded), the applicant may apply to the court for an order directing the company to include the information in question in the register.

The court may make such an order if it thinks fit.

Commencement Information

I283 S. 818 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

819 Duty of company ceasing to be public company

(1) If a company ceases to be a public company, it must continue to keep any register kept under section 808 (register of interests disclosed), and any associated index, until the end of the period of six years after it ceased to be such a company.

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

(a) the company, and

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(b) every officer of the company who is in default.

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

Commencement Information

I284 S. 819 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

Meaning of interest in shares

820 Interest in shares: general

(1) This section applies to determine for the purposes of this Part whether a person has an interest in shares.

(2) In this Part—

(a) a reference to an interest in shares includes an interest of any kind whatsoever in the shares, and

(b) any restraints or restrictions to which the exercise of any right attached to the interest is or may be subject shall be disregarded.

(3) Where an interest in shares is comprised in property held on trust, every beneficiary of the trust is treated as having an interest in the shares.

(4) A person is treated as having an interest in shares if—

(a) he enters into a contract to acquire them, or

(b) not being the registered holder, he is entitled—

(i) to exercise any right conferred by the holding of the shares, or

(ii) to control the exercise of any such right.

(5) For the purposes of subsection (4)(b) a person is entitled to exercise or control the exercise of a right conferred by the holding of shares if he—

(a) has a right (whether subject to conditions or not) the exercise of which would make him so entitled, or

(b) is under an obligation (whether subject to conditions or not) the fulfilment of which would make him so entitled.

(6) A person is treated as having an interest in shares if—

(a) he has a right to call for delivery of the shares to himself or to his order, or

(b) he has a right to acquire an interest in shares or is under an obligation to take an interest in shares.

This applies whether the right or obligation is conditional or absolute.

(7) Persons having a joint interest are treated as each having that interest.

(8) It is immaterial that shares in which a person has an interest are unidentifiable.

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Commencement Information

I285 S. 820 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

821 Interest in shares: right to subscribe for shares

(1) Section 793 (notice by company requiring information about interests in its shares) applies in relation to a person who has, or previously had, or is or was entitled to acquire, a right to subscribe for shares in the company as it applies in relation to a person who is or was interested in shares in that company.

(2) References in that section to an interest in shares shall be read accordingly.

Commencement Information

I286 S. 821 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

822 Interest in shares: family interests

(1) For the purposes of this Part a person is taken to be interested in shares in which—

(a) his spouse or civil partner, or

(b) any infant child or step-child of his,

is interested.

(2) In relation to Scotland "infant" means a person under the age of 18 years.

Commencement Information

I287 S. 822 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

823 Interest in shares: corporate interests

(1) For the purposes of this Part a person is taken to be interested in shares if a body corporate is interested in them and—

(a) the body or its directors are accustomed to act in accordance with his directions or instructions, or

(b) he is entitled to exercise or control the exercise of one-third or more of the voting power at general meetings of the body.

(2) For the purposes of this section a person is treated as entitled to exercise or control the exercise of voting power if—

(a) another body corporate is entitled to exercise or control the exercise of that voting power, and

(b) he is entitled to exercise or control the exercise of one-third or more of the voting power at general meetings of that body corporate.

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(3) For the purposes of this section a person is treated as entitled to exercise or control the exercise of voting power if—

(a) he has a right (whether or not subject to conditions) the exercise of which would make him so entitled, or

(b) he is under an obligation (whether or not subject to conditions) the fulfilment of which would make him so entitled.

Commencement Information

I288 S. 823 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

824 Interest in shares: agreement to acquire interests in a particular company

(1) For the purposes of this Part an interest in shares may arise from an agreement between two or more persons that includes provision for the acquisition by any one or more of them of interests in shares of a particular public company (the "target company" for that agreement).

(2) This section applies to such an agreement if—

(a) the agreement includes provision imposing obligations or restrictions on any one or more of the parties to it with respect to their use, retention or disposal of their interests in the shares of the target company acquired in pursuance of the agreement (whether or not together with any other interests of theirs in the company's shares to which the agreement relates), and

(b) an interest in the target company's shares is in fact acquired by any of the parties in pursuance of the agreement.

(3) The reference in subsection (2) to the use of interests in shares in the target company is to the exercise of any rights or of any control or influence arising from those interests (including the right to enter into an agreement for the exercise, or for control of the exercise, of any of those rights by another person).

(4) Once an interest in shares in the target company has been acquired in pursuance of the agreement, this section continues to apply to the agreement so long as the agreement continues to include provisions of any description mentioned in subsection (2).

This applies irrespective of—

(a) whether or not any further acquisitions of interests in the company's shares take place in pursuance of the agreement;

(b) any change in the persons who are for the time being parties to it;

(c) any variation of the agreement.

References in this subsection to the agreement include any agreement having effect (whether directly or indirectly) in substitution for the original agreement.

(5) In this section—

(a) "agreement" includes any agreement or arrangement, and

(b) references to provisions of an agreement include—

(i) undertakings, expectations or understandings operative under an arrangement, and

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(ii) any provision whether express or implied and whether absolute or not.

References elsewhere in this Part to an agreement to which this section applies have a corresponding meaning.

(6) This section does not apply—

(a) to an agreement that is not legally binding unless it involves mutuality in the undertakings, expectations or understandings of the parties to it; or

(b) to an agreement to underwrite or sub-underwrite an offer of shares in a company, provided the agreement is confined to that purpose and any matters incidental to it.

Commencement Information

I289 S. 824 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

825 Extent of obligation in case of share acquisition agreement

(1) For the purposes of this Part each party to an agreement to which section 824 applies is treated as interested in all shares in the target company in which any other party to the agreement is interested apart from the agreement (whether or not the interest of the other party was acquired, or includes any interest that was acquired, in pursuance of the agreement).

(2) For those purposes an interest of a party to such an agreement in shares in the target company is an interest apart from the agreement if he is interested in those shares otherwise than by virtue of the application of section 824 (and this section) in relation to the agreement.

(3) Accordingly, any such interest of the person (apart from the agreement) includes for those purposes any interest treated as his under section 822 or 823 (family or corporate interests) or by the application of section 824 (and this section) in relation to any other agreement with respect to shares in the target company to which he is a party.

(4) A notification with respect to his interest in shares in the target company made to the company under this Part by a person who is for the time being a party to an agreement to which section 824 applies must—

(a) state that the person making the notification is a party to such an agreement,

(b) include the names and (so far as known to him) the addresses of the other parties to the agreement, identifying them as such, and

(c) state whether or not any of the shares to which the notification relates are shares in which he is interested by virtue of section 824 (and this section) and, if so, the number of those shares.

Commencement Information

I290 S. 825 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

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Other supplementary provisions

826 Information protected from wider disclosure

(1) Information in respect of which a company is for the time being entitled to any exemption conferred by regulations under section 409(3) (information about related undertakings to be given in notes to accounts: exemption where disclosure harmful to company's business)—

(a) must not be included in a report under section 805 (report to members on outcome of investigation), and

(b) must not be made available under section 811 (right to inspect and request copy of entries).

(2) Where any such information is omitted from a report under section 805, that fact must be stated in the report.

Commencement Information

I291 S. 826 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

827 Reckoning of periods for fulfilling obligations

Where the period allowed by any provision of this Part for fulfilling an obligation is expressed as a number of days, any day that is not a working day shall be disregarded in reckoning that period.

Commencement Information

I292 S. 827 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

828 Power to make further provision by regulations

(1) The Secretary of State may by regulations amend—

(a) the definition of shares to which this Part applies (section 792),

(b) the provisions as to notice by a company requiring information about interests in its shares (section 793), and

(c) the provisions as to what is taken to be an interest in shares (sections 820 and 821).

(2) The regulations may amend, repeal or replace those provisions and make such other consequential amendments or repeals of provisions of this Part as appear to the Secretary of State to be appropriate.

(3) Regulations under this section are subject to affirmative resolution procedure.

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Commencement Information

I293 S. 828 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

PART 23

DISTRIBUTIONS

Modifications etc. (not altering text)

C1143 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

C1144 Pt. 23 excluded (1.10.2011) by Postal Services Act 2011 (c. 5), ss. 8, 93, **Sch. 1 para. 18(a)**; S.I. 2011/2329, **art. 3**

CHAPTER 1

RESTRICTIONS ON WHEN DISTRIBUTIONS MAY BE MADE

Introductory

829 Meaning of "distribution"

(1) In this Part "distribution" means every description of distribution of a company's assets to its members, whether in cash or otherwise, subject to the following exceptions.

(2) The following are not distributions for the purposes of this Part—

(a) an issue of shares as fully or partly paid bonus shares;

(b) the reduction of share capital—

(i) by extinguishing or reducing the liability of any of the members on any of the company's shares in respect of share capital not paid up, or

(ii) by repaying paid-up share capital;

(c) the redemption or purchase of any of the company's own shares out of capital (including the proceeds of any fresh issue of shares) or out of unrealised profits in accordance with Chapter 3, 4 or 5 of Part 18;

(d) a distribution of assets to members of the company on its winding up.

Commencement Information

I294 S. 829 wholly in force at 6.4.2008; s. 829 not in force at Royal Assent see s. 1300; s. 829 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

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General rules

830 Distributions to be made only out of profits available for the purpose

(1) A company may only make a distribution out of profits available for the purpose.

(2) A company's profits available for distribution are its accumulated, realised profits, so far as not previously utilised by distribution or capitalisation, less its accumulated, realised losses, so far as not previously written off in a reduction or reorganisation of capital duly made.

(3) Subsection (2) has effect subject to sections 832 **[**F885, 833A**]** and 835 (investment companies **[**F886and Solvency 2 insurance companies**]**).

Textual Amendments

F885 Word in s. 830(3) inserted (30.12.2016) by The Companies Act 2006 (Distributions of Insurance Companies) Regulations 2016 (S.I. 2016/1194), regs. 1(2), **2(2)(a)**

F886 Words in s. 830(3) substituted (30.12.2016) by The Companies Act 2006 (Distributions of Insurance Companies) Regulations 2016 (S.I. 2016/1194), regs. 1(2), **2(2)(b)**

Commencement Information

I295 S. 830 wholly in force at 6.4.2008; s. 830 not in force at Royal Assent see s. 1300; s. 830 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

831 Net asset restriction on distributions by public companies

(1) A public company may only make a distribution—

(a) if the amount of its net assets is not less than the aggregate of its called-up share capital and undistributable reserves, and

(b) if, and to the extent that, the distribution does not reduce the amount of those assets to less than that aggregate.

(2) For this purpose a company's "net assets" means the aggregate of the company's assets less the aggregate of its liabilities.

(3) "Liabilities" here includes—

(a) where the relevant accounts are Companies Act accounts, provisions of a kind specified for the purposes of this subsection by regulations under section 396;

(b) where the relevant accounts are IAS accounts, provisions of any kind.

(4) A company's undistributable reserves are—

(a) its share premium account;

(b) its capital redemption reserve;

(c) the amount by which its accumulated, unrealised profits (so far as not previously utilised by capitalisation) exceed its accumulated, unrealised losses (so far as not previously written off in a reduction or reorganisation of capital duly made);

(d) any other reserve that the company is prohibited from distributing—

(i) by any enactment (other than one contained in this Part), or

(ii) by its articles.

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The reference in paragraph (c) to capitalisation does not include a transfer of profits of the company to its capital redemption reserve.

(5) A public company must not include any uncalled share capital as an asset in any accounts relevant for purposes of this section.

(6) Subsection (1) has effect subject to sections 832 and 835 (investment companies etc: distributions out of accumulated revenue profits).

Commencement Information

I296 S. 831 wholly in force at 6.4.2008; s. 831 not in force at Royal Assent see s. 1300; s. 831 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

Distributions by investment companies [F887 or Solvency 2 insurance companies]

Textual Amendments

F887 Words in s. 832 cross-heading inserted (30.12.2016) by The Companies Act 2006 (Distributions of Insurance Companies) Regulations 2016 (S.I. 2016/1194), regs. 1(2), **2(3)**

832 Distributions by investment companies out of accumulated revenue profits

(1) An investment company may make a distribution out of its accumulated, realised revenue profits if the following conditions are met.

(2) It may make such a distribution only if, and to the extent that, its accumulated, realised revenue profits, so far as not previously utilised by a distribution or capitalisation, exceed its accumulated revenue losses (whether realised or unrealised), so far as not previously written off in a reduction or reorganisation of capital duly made.

(3) It may make such a distribution only—

(a) if the amount of its assets is at least equal to one and a half times the aggregate of its liabilities to creditors, and

(b) if, and to the extent that, the distribution does not reduce that amount to less than one and a half times that aggregate.

(4) For this purpose a company's liabilities to creditors include—

(a) in the case of Companies Act accounts, provisions of a kind specified for the purposes of this subsection by regulations under section 396;

(b) in the case of IAS accounts, provisions for liabilities to creditors.

(5) The following conditions must also be met—

[F888(a) the company's shares must be shares admitted to trading on a [F889UK regulated market];]

(b) during the relevant period it must not have—

(i) F890 . . . . . .

(ii) applied any unrealised profits F891. . . in paying up debentures or amounts unpaid on its issued shares;

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(c) it must have given notice to the registrar under section 833(1) (notice of intention to carry on business as an investment company)—

(i) before the beginning of the relevant period, or

(ii) as soon as reasonably practicable after the date of its incorporation.

(6) For the purposes of this section—

(a) F892 . . . . . .

(b) the "relevant period" is the period beginning with—

(i) the first day of the accounting reference period immediately preceding that in which the proposed distribution is to be made, or

(ii) where the distribution is to be made in the company's first accounting reference period, the first day of that period,

and ending with the date of the distribution.

(7) The company must not include any uncalled share capital as an asset in any accounts relevant for purposes of this section.

Textual Amendments

F888 S. 832(5)(a) substituted (6.4.2012) by The Companies Act 2006 (Amendment of Part 23) (Investment Companies) Regulations 2012 (S.I. 2012/952), regs. 1, **2(2)(a)**

F889 Words in s. 832(5)(a) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 12** (with Sch. 4 para. 3) (as amended by S.I. 2020/523, regs. 1(2), 20); 2020 c. 1, Sch. 5 para. 1(1)

F890 S. 832(5)(b)(i) and following word omitted (6.4.2012) by virtue of The Companies Act 2006 (Amendment of Part 23) (Investment Companies) Regulations 2012 (S.I. 2012/952), regs. 1, **2(2)(b)**

F891 Words in s. 832(5)(b)(ii) omitted (6.4.2012) by virtue of The Companies Act 2006 (Amendment of Part 23) (Investment Companies) Regulations 2012 (S.I. 2012/952), regs. 1, **2(2)(c)**

F892 S. 832(6)(a) and following word omitted (6.4.2012) by virtue of The Companies Act 2006 (Amendment of Part 23) (Investment Companies) Regulations 2012 (S.I. 2012/952), regs. 1, **2(3)**

Commencement Information

I297 S. 832 wholly in force at 6.4.2008; s. 832 not in force at Royal Assent see s. 1300; s. 832 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

833 Meaning of "investment company"

(1) In this Part an "investment company" means a public company that—

(a) has given notice (which has not been revoked) to the registrar of its intention to carry on business as an investment company, and

(b) since the date of that notice has complied with the following **[**F893requirement**]**.

(2) **[**F894The requirement is**]**—

(a) that the business of the company consists of investing its funds **[**F895in shares, land or other assets**]**, with the aim of spreading investment risk and giving members of the company the benefit of the results of the management of its funds;

(b) F896 . . . . . .

(c) F896 . . . . . .

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(d) F896. . . . . .

(3) F897. . . . . .

(4) Notice to the registrar under this section may be revoked at any time by the company on giving notice to the registrar that it no longer wishes to be an investment company within the meaning of this section.

(5) On giving such a notice, the company ceases to be such a company.

Textual Amendments

F893 Word in s. 833(1)(b) substituted (6.4.2012) by The Companies Act 2006 (Amendment of Part 23) (Investment Companies) Regulations 2012 (S.I. 2012/952), regs. 1, **2(4)**

F894 Words in s. 833(2) substituted (6.4.2012) by The Companies Act 2006 (Amendment of Part 23) (Investment Companies) Regulations 2012 (S.I. 2012/952), regs. 1, **2(5)(a)**

F895 Words in s. 833(2)(a) substituted (6.4.2012) by The Companies Act 2006 (Amendment of Part 23) (Investment Companies) Regulations 2012 (S.I. 2012/952), regs. 1, **2(5)(b)**

F896 S. 833(2)(b)(c)(d) omitted (6.4.2012) by virtue of The Companies Act 2006 (Amendment of Part 23) (Investment Companies) Regulations 2012 (S.I. 2012/952), regs. 1, **2(5)(c)** (with reg. 3)

F897 S. 833(3) omitted (6.4.2012) by virtue of The Companies Act 2006 (Amendment of Part 23) (Investment Companies) Regulations 2012 (S.I. 2012/952), regs. 1, **2(6)**

Commencement Information

I298 S. 833 wholly in force at 6.4.2008; s. 833 not in force at Royal Assent see s. 1300; s. 833 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

[F898833A Distributions by insurance companies authorised under the Solvency 2 Directive

(1) This section applies in relation to any authorised insurance company carrying on long-term business that is authorised in accordance with Article 14 of the Solvency 2 Directive.

(2) For the purposes of section 830(2), the realised profit or loss of the company for the period in respect of which its relevant accounts (within the meaning of section 836) are prepared is taken to be the amount given by the formula in subsection (4) (with a positive figure taken to be a realised profit and a negative figure taken to be a realised loss).

(3) But the company's profits available for distribution are limited to an amount that does not exceed its accumulated profits (whether realised or not), so far as not previously utilised by distribution or capitalisation, less its accumulated losses (whether realised or not), so far as not previously written off in a reduction or reorganisation of capital duly made.

(4) The formula is $A - L - D$,

where—

"A" is the total value of the company's assets;

"L" is the total value of the company's liabilities; and

"D" is the total value of the items within subsection (5) relating to the company;

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and, in each case, the value is to be determined as at the date of the company's balance sheet that forms part of the accounts mentioned in subsection (2).

(5) The items within this subsection are—

(a) if the value of shares held by the company in a qualifying investment subsidiary exceeds the value of the consideration given by it for their acquisition, the amount of that excess;

(b) any asset of the company representing a surplus in a defined benefit pension scheme;

(c) if the value of the assets held by the company in a ring-fenced fund exceeds the value of the liabilities incurred by the company in respect of that fund, the amount of that excess;

(d) the amount of any liability of the company in respect of deferred tax shown in the company's balance sheet that relates to any asset within paragraph (a), (b) or (c);

(e) if—

(i) the company has permission under regulation 42 of the Solvency 2 Regulations 2015 to apply a matching adjustment to a relevant risk-free interest rate term structure to calculate the best estimate of a portfolio of the company's life insurance or reinsurance obligations, and

(ii) the value of the portfolio of the company's assets assigned by the company to cover the best estimate exceeds the value of the portfolio of the company's life insurance or reinsurance obligations,

the amount of that excess; and

(f) the following capital items of the company—

(i) paid-in ordinary share capital together with any related share premium account;

(ii) paid-in preference shares which are not liabilities of the company together with any related share premium account;

(iii) capital redemption reserve; and

(iv) any other reserve that the company is prohibited from distributing (ignoring this Part for this purpose).

(6) So far as anything falls within more than one of the above paragraphs of subsection (5), its value is to be taken into account only once.

(7) The company's assets and liabilities must be valued in accordance with—

(a) rules made by the Prudential Regulation Authority under Part 9A of the Financial Services and Markets Act 2000 implementing Articles 75 to 85, and 308b to 308e, of the Solvency 2 Directive; and

(b) Articles 7 to 61 of Commission Delegated Regulation (EU) 2015/35 supplementing that directive.

(8) If the company carries on both long-term business and other insurance business—

(a) this section is to be applied on the assumption that the company carries on only the long-term business; and

(b) the remainder of this Part is to be applied on the assumption that the company carries on only that other insurance business;

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and, in applying paragraph (a) or (b), such apportionments of amounts referable to the long-term business or other insurance business are to be made as are just and reasonable.

(9) In this section—

"best estimate", "paid-in ordinary share capital", "paid-in preference shares", "relevant risk-free interest rate term structure" and "ring-fenced fund" have the same meaning as in the Solvency 2 Directive and any directly applicable regulations made under it;

"defined benefit pension scheme" means a pension scheme (as defined by section 1(5) of the Pension Schemes Act 1993) which is a defined benefits scheme within the meaning given by section 2 of the Pension Schemes Act 2015;

"long-term business" means business that consists of effecting or carrying out contracts of long-term insurance (and this definition must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act);

"qualifying investment subsidiary" means an undertaking in which the company holds a participation within the meaning given by Article 13(20) of the Solvency 2 Directive and which is not held by the company as part of its portfolio of investments;

"Solvency 2 Directive" means Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).**]**

Textual Amendments

F898 S. 833A inserted (30.12.2016) by The Companies Act 2006 (Distributions of Insurance Companies) Regulations 2016 (S.I. 2016/1194), regs. 1(2), **2(4)**

834 Investment company: condition as to holdings in other companies

F899 . . . . . .

Textual Amendments

F899 S. 834 omitted (6.4.2012) by virtue of The Companies Act 2006 (Amendment of Part 23) (Investment Companies) Regulations 2012 (S.I. 2012/952), regs. 1, **2(7)**

835 Power to extend provisions relating to investment companies

F900 . . . . . .

Textual Amendments

F900 S. 835 omitted (6.4.2012) by virtue of The Companies Act 2006 (Amendment of Part 23) (Investment Companies) Regulations 2012 (S.I. 2012/952), regs. 1, **2(7)**

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CHAPTER 2

JUSTIFICATION OF DISTRIBUTION BY REFERENCE TO ACCOUNTS

Justification of distribution by reference to accounts

836 Justification of distribution by reference to relevant accounts

(1) Whether a distribution may be made by a company without contravening this Part is determined by reference to the following items as stated in the relevant accounts—

(a) profits, losses, assets and liabilities;

(b) provisions of the following kinds—

(i) where the relevant accounts are Companies Act accounts, provisions of a kind specified for the purposes of this subsection by regulations under section 396;

(ii) where the relevant accounts are IAS accounts, provisions of any kind;

(c) share capital and reserves (including undistributable reserves).

(2) The relevant accounts are the company's last annual accounts, except that—

(a) where the distribution would be found to contravene this Part by reference to the company's last annual accounts, it may be justified by reference to interim accounts, and

(b) where the distribution is proposed to be declared during the company's first accounting reference period, or before any accounts have been circulated in respect of that period, it may be justified by reference to initial accounts.

(3) The requirements of—

section 837 (as regards the company's last annual accounts),

section 838 (as regards interim accounts), and

section 839 (as regards initial accounts),

must be complied with, as and where applicable.

(4) If any applicable requirement of those sections is not complied with, the accounts may not be relied on for the purposes of this Part and the distribution is accordingly treated as contravening this Part.

Commencement Information

I299 S. 836 wholly in force at 6.4.2008; s. 836 not in force at Royal Assent see s. 1300; s. 836 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

Requirements applicable in relation to relevant accounts

837 Requirements where last annual accounts used

(1) The company's last annual accounts means the company's individual accounts—

(a) that were last circulated to members in accordance with section 423 (duty to circulate copies of annual accounts and reports), or

Status: *Point in time view as at 31/12/2020.*
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F901(b) . . . . . .

(2) The accounts must have been properly prepared in accordance with this Act, or have been so prepared subject only to matters that are not material for determining (by reference to the items mentioned in section 836(1)) whether the distribution would contravene this Part.

(3) Unless the company is exempt from audit and the directors take advantage of that exemption, the auditor must have made his report on the accounts.

(4) If that report was qualified—

(a) the auditor must have stated in writing (either at the time of his report or subsequently) whether in his opinion the matters in respect of which his report is qualified are material for determining whether a distribution would contravene this Part, and

(b) a copy of that statement must—

(i) in the case of a private company, have been circulated to members in accordance with section 423, or

(ii) in the case of a public company, have been laid before the company in general meeting.

(5) An auditor's statement is sufficient for the purposes of a distribution if it relates to distributions of a description that includes the distribution in question, even if at the time of the statement it had not been proposed.

Textual Amendments

F901 S. 837(1)(b) omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 23**

Commencement Information

I300 S. 837 wholly in force at 6.4.2008; s. 837 not in force at Royal Assent see s. 1300; s. 837 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

838 Requirements where interim accounts used

(1) Interim accounts must be accounts that enable a reasonable judgment to be made as to the amounts of the items mentioned in section 836(1).

(2) Where interim accounts are prepared for a proposed distribution by a public company, the following requirements apply.

(3) The accounts must have been properly prepared, or have been so prepared subject to matters that are not material for determining (by reference to the items mentioned in section 836(1)) whether the distribution would contravene this Part.

(4) "Properly prepared" means prepared in accordance with sections 395 to 397 (requirements for company individual accounts), applying those requirements with such modifications as are necessary because the accounts are prepared otherwise than in respect of an accounting reference period.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(5) The balance sheet comprised in the accounts must have been signed in accordance with section 414.

(6) A copy of the accounts must have been delivered to the registrar.

Any requirement of Part 35 of this Act as to the delivery of a certified translation into English of any document forming part of the accounts must also have been met.

Commencement Information

I301 S. 838 wholly in force at 6.4.2008; s. 838 not in force at Royal Assent see s. 1300; s. 838 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

839 Requirements where initial accounts used

(1) Initial accounts must be accounts that enable a reasonable judgment to be made as to the amounts of the items mentioned in section 836(1).

(2) Where initial accounts are prepared for a proposed distribution by a public company, the following requirements apply.

(3) The accounts must have been properly prepared, or have been so prepared subject to matters that are not material for determining (by reference to the items mentioned in section 836(1)) whether the distribution would contravene this Part.

(4) "Properly prepared" means prepared in accordance with sections 395 to 397 (requirements for company individual accounts), applying those requirements with such modifications as are necessary because the accounts are prepared otherwise than in respect of an accounting reference period.

(5) The company's auditor must have made a report stating whether, in his opinion, the accounts have been properly prepared.

(6) If that report was qualified—

(a) the auditor must have stated in writing (either at the time of his report or subsequently) whether in his opinion the matters in respect of which his report is qualified are material for determining whether a distribution would contravene this Part, and

[F902(b) a copy of that statement must have been laid before the company in general meeting.**]**

(7) A copy of the accounts, of the auditor's report and of any auditor's statement must have been delivered to the registrar.

Any requirement of Part 35 of this Act as to the delivery of a certified translation into English of any of those documents must also have been met.

Textual Amendments

F902 S. 839(6)(b) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 260(4)** (with art. 10)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I302 S. 839 wholly in force at 6.4.2008; s. 839 not in force at Royal Assent see s. 1300; s. 839 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

Application of provisions to successive distributions etc

840 Successive distributions etc by reference to the same accounts

(1) In determining whether a proposed distribution may be made by a company in a case where—

(a) one or more previous distributions have been made in pursuance of a determination made by reference to the same relevant accounts, or

(b) relevant financial assistance has been given, or other relevant payments have been made, since those accounts were prepared,

the provisions of this Part apply as if the amount of the proposed distribution was increased by the amount of the previous distributions, financial assistance and other payments.

(2) The financial assistance and other payments that are relevant for this purpose are—

(a) financial assistance lawfully given by the company out of its distributable profits;

(b) financial assistance given by the company in contravention of section 678 or 679 (prohibited financial assistance) in a case where the giving of that assistance reduces the company's net assets or increases its net liabilities;

(c) payments made by the company in respect of the purchase by it of shares in the company, except a payment lawfully made otherwise than out of distributable profits;

(d) payments of any description specified in section 705 (payments apart from purchase price of shares to be made out of distributable profits).

(3) In this section "financial assistance" has the same meaning as in Chapter 2 of Part 18 (see section 677).

(4) For the purpose of applying subsection (2)(b) in relation to any financial assistance—

(a) "net assets" means the amount by which the aggregate amount of the company's assets exceeds the aggregate amount of its liabilities, and

(b) "net liabilities" means the amount by which the aggregate amount of the company's liabilities exceeds the aggregate amount of its assets,

taking the amount of the assets and liabilities to be as stated in the company's accounting records immediately before the financial assistance is given.

(5) For this purpose a company's liabilities include any amount retained as reasonably necessary for the purposes of providing for any liability—

(a) the nature of which is clearly defined, and

(b) which is either likely to be incurred or certain to be incurred but uncertain as to amount or as to the date on which it will arise.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I303 S. 840 wholly in force at 6.4.2008; s. 840 not in force at Royal Assent see s. 1300; s. 840 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

CHAPTER 3

SUPPLEMENTARY PROVISIONS

Accounting matters

841 Realised losses and profits and revaluation of fixed assets

(1) The following provisions have effect for the purposes of this Part.

(2) The following are treated as realised losses—

(a) in the case of Companies Act accounts, provisions of a kind specified for the purposes of this paragraph by regulations under section 396 (except revaluation provisions);

(b) in the case of IAS accounts, provisions of any kind (except revaluation provisions).

(3) A "revaluation provision" means a provision in respect of a diminution in value of a fixed asset appearing on a revaluation of all the fixed assets of the company, or of all of its fixed assets other than goodwill.

(4) For the purpose of subsections (2) and (3) any consideration by the directors of the value at a particular time of a fixed asset is treated as a revaluation provided—

(a) the directors are satisfied that the aggregate value at that time of the fixed assets of the company that have not actually been revalued is not less than the aggregate amount at which they are then stated in the company's accounts, and

(b) it is stated in a note to the accounts—

(i) that the directors have considered the value of some or all of the fixed assets of the company without actually revaluing them,

(ii) that they are satisfied that the aggregate value of those assets at the time of their consideration was not less than the aggregate amount at which they were then stated in the company's accounts, and

(iii) that accordingly, by virtue of this subsection, amounts are stated in the accounts on the basis that a revaluation of fixed assets of the company is treated as having taken place at that time.

(5) Where—

(a) on the revaluation of a fixed asset, an unrealised profit is shown to have been made, and

(b) on or after the revaluation, a sum is written off or retained for depreciation of that asset over a period,

an amount equal to the amount by which that sum exceeds the sum which would have been so written off or retained for the depreciation of that asset over that period, if that profit had not been made, is treated as a realised profit made over that period.

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Commencement Information

I304 S. 841 wholly in force at 6.4.2008; s. 841 not in force at Royal Assent see s. 1300; s. 841 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

842 Determination of profit or loss in respect of asset where records incomplete

In determining for the purposes of this Part whether a company has made a profit or loss in respect of an asset where—

(a) there is no record of the original cost of the asset, or

(b) a record cannot be obtained without unreasonable expense or delay,

its cost is taken to be the value ascribed to it in the earliest available record of its value made on or after its acquisition by the company.

Commencement Information

I305 S. 842 wholly in force at 6.4.2008; s. 842 not in force at Royal Assent see s. 1300; s. 842 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

843 Realised profits and losses of long-term insurance business [F903of certain insurance companies]

[F904(1) The provisions of this section have effect for the purposes of this Part as it applies in relation to an authorised insurance company carrying on long-term business, other than—

(a) a person to whom section 833A applies; or

(b) an insurance special purpose vehicle.**]**

(2) An amount included in the relevant part of the company's balance sheet that—

(a) represents a surplus in the fund or funds maintained by it in respect of its long-term business, and

(b) has not been allocated to policy holders or, as the case may be, carried forward unappropriated in accordance with asset identification rules made under **[**F905Part 9A**]** of the Financial Services and Markets Act 2000 (c. 8),

is treated as a realised profit.

(3) For the purposes of subsection (2)—

(a) the relevant part of the balance sheet is that part of the balance sheet that represents accumulated profit or loss;

(b) a surplus in the fund or funds maintained by the company in respect of its long-term business means an excess of the assets representing that fund or those funds over the liabilities of the company attributable to its long-term business, as shown by an actuarial investigation.

(4) A deficit in the fund or funds maintained by the company in respect of its long-term business is treated as a realised loss.

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For this purpose a deficit in any such fund or funds means an excess of the liabilities of the company attributable to its long-term business over the assets representing that fund or those funds, as shown by an actuarial investigation.

(5) Subject to subsections (2) and (4), any profit or loss arising in the company's long-term business is to be left out of account.

(6) For the purposes of this section an "actuarial investigation" means an investigation made into the financial condition of an authorised insurance company in respect of its long-term business—

(a) carried out once in every period of twelve months in accordance with rules made under **[**F906Part 9A**]** of the Financial Services and Markets Act 2000, or

(b) carried out in accordance with a requirement imposed under section 166 of that Act,

by an actuary appointed as actuary to the company.

(7) In this section "long-term business" means business that consists of effecting or carrying out contracts of long-term insurance.

This definition must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act.

[F907(8) In this section " insurance special purpose vehicle " means a special purpose vehicle within the meaning of **[**F908Article 13(26) of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)**]** . **]**

Textual Amendments

F903 Words in s. 843 heading inserted (30.12.2016) by The Companies Act 2006 (Distributions of Insurance Companies) Regulations 2016 (S.I. 2016/1194), regs. 1(2), **2(5)(a)**

F904 S. 843(1) substituted (30.12.2016) by The Companies Act 2006 (Distributions of Insurance Companies) Regulations 2016 (S.I. 2016/1194), regs. 1(2), **2(5)(b)**

F905 Words in s. 843(2)(b) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 117(2)** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

F906 Words in s. 843(6)(a) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 117(3)** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

F907 S. 843(8) inserted (10.12.2007) by The Reinsurance Directive Regulations 2007 (S.I. 2007/3253), reg. 2(3), **Sch. 3 para. 2(1)(b)**

F908 Words in s. 843(8) substituted (1.1.2016) by The Solvency 2 Regulations 2015 (S.I. 2015/575), reg. 1(2), **Sch. 1 para. 25**

Commencement Information

I306 S. 843 wholly in force at 6.4.2008; s. 843 not in force at Royal Assent see s. 1300; s. 843 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

844 Treatment of development costs

(1) Where development costs are shown or included as an asset in a company's accounts, any amount shown or included in respect of those costs is treated—

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(a) for the purposes of section 830 (distributions to be made out of profits available for the purpose) as a realised loss, and

(b) for the purposes of section 832 (distributions by investment companies out of accumulated revenue profits) as a realised revenue loss.

This is subject to the following exceptions.

(2) Subsection (1) does not apply to any part of that amount representing an unrealised profit made on revaluation of those costs.

(3) Subsection (1) does not apply if—

(a) there are special circumstances in the company's case justifying the directors in deciding that the amount there mentioned is not to be treated as required by subsection (1),

(b) it is stated—

(i) in the case of Companies Act accounts, in the note required by regulations under section 396 as to the reasons for showing development costs as an asset, or

(ii) in the case of IAS accounts, in any note to the accounts,

that the amount is not to be so treated, and

(c) the note explains the circumstances relied upon to justify the decision of the directors to that effect.

Commencement Information

I307 S. 844 wholly in force at 6.4.2008; s. 844 not in force at Royal Assent see s. 1300; s. 844 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

Distributions in kind

845 Distributions in kind: determination of amount

(1) This section applies for determining the amount of a distribution consisting of or including, or treated as arising in consequence of, the sale, transfer or other disposition by a company of a non-cash asset where—

(a) at the time of the distribution the company has profits available for distribution, and

(b) if the amount of the distribution were to be determined in accordance with this section, the company could make the distribution without contravening this Part.

(2) The amount of the distribution (or the relevant part of it) is taken to be—

(a) in a case where the amount or value of the consideration for the disposition is not less than the book value of the asset, zero;

(b) in any other case, the amount by which the book value of the asset exceeds the amount or value of any consideration for the disposition.

(3) For the purposes of subsection (1)(a) the company's profits available for distribution are treated as increased by the amount (if any) by which the amount or value of any consideration for the disposition exceeds the book value of the asset.

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(4) In this section "book value", in relation to an asset, means—

(a) the amount at which the asset is stated in the relevant accounts, or

(b) where the asset is not stated in those accounts at any amount, zero.

(5) The provisions of Chapter 2 (justification of distribution by reference to accounts) have effect subject to this section.

Commencement Information

I308 S. 845 wholly in force at 6.4.2008; s. 845 not in force at Royal Assent see s. 1300; s. 845 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

846 Distributions in kind: treatment of unrealised profits

(1) This section applies where—

(a) a company makes a distribution consisting of or including, or treated as arising in consequence of, the sale, transfer or other disposition by the company of a non-cash asset, and

(b) any part of the amount at which that asset is stated in the relevant accounts represents an unrealised profit.

(2) That profit is treated as a realised profit—

(a) for the purpose of determining the lawfulness of the distribution in accordance with this Part (whether before or after the distribution takes place), and

(b) for the purpose of the application, in relation to anything done with a view to or in connection with the making of the distribution, of any provision of regulations under section 396 under which only realised profits are to be included in or transferred to the profit and loss account.

Commencement Information

I309 S. 846 wholly in force at 6.4.2008; s. 846 not in force at Royal Assent see s. 1300; s. 846 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

Consequences of unlawful distribution

847 Consequences of unlawful distribution

(1) This section applies where a distribution, or part of one, made by a company to one of its members is made in contravention of this Part.

(2) If at the time of the distribution the member knows or has reasonable grounds for believing that it is so made, he is liable—

(a) to repay it (or that part of it, as the case may be) to the company, or

(b) in the case of a distribution made otherwise than in cash, to pay the company a sum equal to the value of the distribution (or part) at that time.

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(3) This is without prejudice to any obligation imposed apart from this section on a member of a company to repay a distribution unlawfully made to him.

(4) This section does not apply in relation to—

(a) financial assistance given by a company in contravention of section 678 or 679, or

(b) any payment made by a company in respect of the redemption or purchase by the company of shares in itself.

Commencement Information

I310 S. 847 wholly in force at 6.4.2008; s. 847 not in force at Royal Assent see s. 1300; s. 847 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

Other matters

848 Saving for certain older provisions in articles

(1) Where immediately before the relevant date a company was authorised by a provision of its articles to apply its unrealised profits in paying up in full or in part unissued shares to be allotted to members of the company as fully or partly paid bonus shares, that provision continues (subject to any alteration of the articles) as authority for those profits to be so applied after that date.

(2) For this purpose the relevant date is—

(a) for companies registered in Great Britain, 22nd December 1980;

(b) for companies registered in Northern Ireland, 1st July 1983.

Commencement Information

I311 S. 848 wholly in force at 6.4.2008; s. 848 not in force at Royal Assent see s. 1300; s. 848 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

849 Restriction on application of unrealised profits

A company must not apply an unrealised profit in paying up debentures or any amounts unpaid on its issued shares.

Commencement Information

I312 S. 849 wholly in force at 6.4.2008; s. 849 not in force at Royal Assent see s. 1300; s. 849 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

850 Treatment of certain older profits or losses

(1) Where the directors of a company are, after making all reasonable enquiries, unable to determine whether a particular profit made before the relevant date is realised or unrealised, they may treat the profit as realised.

(2) Where the directors of a company, after making all reasonable enquiries, are unable to determine whether a particular loss made before the relevant date is realised or unrealised, they may treat the loss as unrealised.

(3) For the purposes of this section the relevant date is—

(a) for companies registered in Great Britain, 22nd December 1980;

(b) for companies registered in Northern Ireland, 1st July 1983.

Commencement Information

I313 S. 850 wholly in force at 6.4.2008; s. 850 not in force at Royal Assent see s. 1300; s. 850 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

851 Application of rules of law restricting distributions

(1) Except as provided in this section, the provisions of this Part are without prejudice to any rule of law restricting the sums out of which, or the cases in which, a distribution may be made.

(2) For the purposes of any rule of law requiring distributions to be paid out of profits or restricting the return of capital to members—

(a) section 845 (distributions in kind: determination of amount) applies to determine the amount of any distribution or return of capital consisting of or including, or treated as arising in consequence of the sale, transfer or other disposition by a company of a non-cash asset; and

(b) section 846 (distributions in kind: treatment of unrealised profits) applies as it applies for the purposes of this Part.

(3) In this section references to distributions are to amounts regarded as distributions for the purposes of any such rule of law as is referred to in subsection (1).

Commencement Information

I314 S. 851 wholly in force at 6.4.2008; s. 851 not in force at Royal Assent see s. 1300; s. 851 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

852 Saving for other restrictions on distributions

The provisions of this Part are without prejudice to any enactment, or any provision of a company's articles, restricting the sums out of which, or the cases in which, a distribution may be made.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I315 S. 852 wholly in force at 6.4.2008; s. 852 not in force at Royal Assent see s. 1300; s. 852 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

853 Minor definitions

(1) The following provisions apply for the purposes of this Part.

(2) References to profit or losses of any description—

(a) are to profits or losses of that description made at any time, and

(b) except where the context otherwise requires, are to profits or losses of a revenue or capital character.

(3) "Capitalisation", in relation to a company's profits, means any of the following operations (whenever carried out)—

(a) applying the profits in wholly or partly paying up unissued shares in the company to be allotted to members of the company as fully or partly paid bonus shares, or

(b) transferring the profits to capital redemption reserve.

(4) References to "realised profits" and "realised losses", in relation to a company's accounts, are to such profits or losses of the company as fall to be treated as realised in accordance with principles generally accepted at the time when the accounts are prepared, with respect to the determination for accounting purposes of realised profits or losses.

(5) Subsection (4) is without prejudice to—

(a) the construction of any other expression (where appropriate) by reference to accepted accounting principles or practice, or

(b) any specific provision for the treatment of profits or losses of any description as realised.

(6) "Fixed assets" means assets of a company which are intended for use on a continuing basis in the company's activities.

Commencement Information

I316 S. 853 wholly in force at 6.4.2008; s. 853 not in force at Royal Assent see s. 1300; s. 853 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(k)** (with savings in arts. 7, 12 and subject to transitional adaptations in Sch. 1 paras. 14-20 and with savings in Sch. 4 paras. 33-35)

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F909[PART 24]

ANNUAL CONFIRMATION OF ACCURACY OF INFORMATION ON REGISTER

Textual Amendments

F909 Pt. 24 substituted (1.5.2016 for specified purposes, otherwise 30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 92**, 164(1); S.I. 2016/321, regs. 5, **6(a)** (with Sch. para. 5)

Modifications etc. (not altering text)

C1145 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

[F909853A Duty to deliver confirmation statements

(1) Every company must, before the end of the period of 14 days after the end of each review period, deliver to the registrar—

(a) such information as is necessary to ensure that the company is able to make the statement referred to in paragraph (b), and

(b) a statement (a "confirmation statement") confirming that all information required to be delivered by the company to the registrar in relation to the confirmation period concerned under any duty mentioned in subsection (2) either—

(i) has been delivered, or

(ii) is being delivered at the same time as the confirmation statement.

(2) The duties are—

(a) any duty to notify a relevant event (see section 853B);

(b) any duty under sections 853C to **[**F910853H**]** .

(3) In this Part "confirmation period"—

(a) in relation to a company's first confirmation statement, means the period beginning with the day of the company's incorporation and ending with the date specified in the statement ("the confirmation date");

(b) in relation to any other confirmation statement of a company, means the period beginning with the day after the confirmation date of the last such statement and ending with the confirmation date of the confirmation statement concerned.

(4) The confirmation date of a confirmation statement must be no later than the last day of the review period concerned.

(5) For the purposes of this Part, each of the following is a review period—

(a) the period of 12 months beginning with the day of the company's incorporation;

(b) each period of 12 months beginning with the day after the end of the previous review period.

(6) But where a company delivers a confirmation statement with a confirmation date which is earlier than the last day of the review period concerned, the next review period is the period of 12 months beginning with the day after the confirmation date.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(7) For the purpose of making a confirmation statement, a company is entitled to assume that any information has been properly delivered to the registrar if it has been delivered within the period of 5 days ending with the date on which the statement is delivered.

(8) But subsection (7) does not apply in a case where the company has received notice from the registrar that such information has not been properly delivered.

Textual Amendments

F910 Word in s. 853A(2)(b) substituted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **10(2)** (with Sch. Pt. 1)

Modifications etc. (not altering text)

C1146 S. 853A(1): power to modify conferred (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), **ss. 39(1)**, 40(e), 49(1) (with ss. 2(2), 5(2), 39(8)(9))

C1147 Ss. 853A, 853B applied (with modifications) by S.I. 2009/1804, reg. 30 (as substituted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 1 para. 5** (with reg. 3(2)-(4)))

C1148 Ss. 853A-853G applied by S.I. 2009/2436, Sch. 1 para. 13(1) (as substituted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 2 para. 2** (with reg. 4(2)-(5)))

C1149 Ss. 853A-853L excluded (1.5.2016 for specified purposes, 30.6.2016 in so far as not already in force) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(2), 7(1)(3), **Sch. para. 1(q)** (see S.I. 2016/321, regs. 5, 6)

C1150 S. 853B amendment to earlier affecting provision S.I. 2009/1804, reg. 30 (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **21** (with Sch. Pt. 2)

C1151 S. 853A(1) modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **16**

853B Duties to notify a relevant event

The following duties are duties to notify a relevant event—

(a) the duty to give notice of a change in the address of the company's registered office (see section 87);

(b) in the case of a company in respect of which an election is in force under section 128B (election to keep membership information on central register), the duty to deliver anything as mentioned in section 128E;

(c) the duty to give notice of a change as mentioned in section 167 (change in directors or in particulars required to be included in register of directors or register of directors' residential addresses);

(d) in the case of a company in respect of which an election is in force under section 167A (election to keep information in register of directors or register of directors' residential addresses on central register), the duty to deliver anything as mentioned in section 167D;

(e) in the case of a private company with a secretary or a public company, the duty to give notice of a change as mentioned in section 276 (change in secretary or joint secretaries or in particulars required to be included in register of secretaries);

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(f) in the case of a private company with a secretary in respect of which an election is in force under section 279A (election to keep information in register of secretaries on central register), the duty to deliver anything as mentioned in section 279D;

[[F911](fa) in the case of a company to which Part 21A (information about people with significant control) applies, and in respect of which an election is not in force under section 790X (election to keep information in PSC register on central register), the duty to give notice of a change as mentioned in section 790VA (notification to the registrar of changes to the company's PSC register);**]**

(g) in the case of a company in respect of which an election is in force under section 790X (election to keep information in PSC register on central register), the duty to deliver anything as mentioned in section 790ZA;

(h) in the case of a company which, in accordance with regulations under section 1136, keeps any company records at a place other than its registered office, any duty under the regulations to give notice of a change in the address of that place.

Textual Amendments

F911 S. 853B(fa) inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **10(3)** (with Sch. Pt. 1)

Modifications etc. (not altering text)

C1147 Ss. 853A, 853B applied (with modifications) by S.I. 2009/1804, reg. 30 (as substituted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 1 para. 5** (with reg. 3(2)-(4)))

C1148 Ss. 853A-853G applied by S.I. 2009/2436, Sch. 1 para. 13(1) (as substituted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 2 para. 2** (with reg. 4(2)-(5)))

C1149 Ss. 853A-853L excluded (1.5.2016 for specified purposes, 30.6.2016 in so far as not already in force) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(2), 7(1)(3), **Sch. para. 1(q)** (see S.I. 2016/321, regs. 5, 6)

C1150 S. 853B amendment to earlier affecting provision S.I. 2009/1804, reg. 30 (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **21** (with Sch. Pt. 2)

C1152 S. 853B applied (with modifications) by S.I. 2009/2436 Sch. 1 para. 13(2) (as substituted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 2 para. 2** (with reg. 4(2)(3)))

853C Duty to notify a change in company's principal business activities

(1) This section applies where—

(a) a company makes a confirmation statement, and

(b) there has been a change in the company's principal business activities during the confirmation period concerned.

(2) The company must give notice to the registrar of the change at the same time as it delivers the confirmation statement.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The information as to the company's new principal business activities may be given by reference to one or more categories of any prescribed system of classifying business activities.

Modifications etc. (not altering text)

C1148 Ss. 853A-853G applied by S.I. 2009/2436, Sch. 1 para. 13(1) (as substituted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 2 para. 2** (with reg. 4(2)-(5)))

C1149 Ss. 853A-853L excluded (1.5.2016 for specified purposes, 30.6.2016 in so far as not already in force) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(2), 7(1)(3), **Sch. para. 1(q)** (see S.I. 2016/321, regs. 5, 6)

C1153 S. 853C applied (with modifications) by S.I. 2009/2436 Sch. 1 para. 13(3) (as substituted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 2 para. 2** (with reg. 4(2)(3)))

853D Duty to deliver statement of capital

(1) This section applies where a company having a share capital makes a confirmation statement.

(2) The company must deliver a statement of capital to the registrar at the same time as it delivers the confirmation statement.

(3) Subsection (2) does not apply if there has been no change in any of the matters required to be dealt with by the statement of capital since the last such statement was delivered to the registrar.

(4) The statement of capital must state with respect to the company's share capital at the confirmation date—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

(c) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and

(d) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class.

Modifications etc. (not altering text)

C1148 Ss. 853A-853G applied by S.I. 2009/2436, Sch. 1 para. 13(1) (as substituted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 2 para. 2** (with reg. 4(2)-(5)))

C1149 Ss. 853A-853L excluded (1.5.2016 for specified purposes, 30.6.2016 in so far as not already in force) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(2), 7(1)(3), **Sch. para. 1(q)** (see S.I. 2016/321, regs. 5, 6)

Status: *Point in time view as at 31/12/2020.*
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853E Duty to notify trading status of shares

(1) This section applies where a company having a share capital makes a confirmation statement.

(2) The company must deliver to the registrar a statement dealing with the matters mentioned in subsection (4) at the same time as it delivers the confirmation statement.

(3) Subsection (2) does not apply if and to the extent that the last statement delivered to the registrar under this section applies equally to the confirmation period concerned.

(4) The matters are—

(a) whether any of the company's shares were, at any time during the confirmation period concerned, shares admitted to trading on a relevant market or on any other market which is outside the United Kingdom, and

(b) if so, whether both of the conditions mentioned in subsection (5) were satisfied throughout the confirmation period concerned.

(5) The conditions are that—

(a) there were shares of the company which were shares admitted to trading on a relevant market;

(b) the company was a DTR5 issuer.

(6) In this Part—

"DTR5 issuer" means an issuer to which Chapter 5 of the Disclosure Rules and Transparency Rules sourcebook made by the Financial Conduct Authority (as amended or replaced from time to time) applies;

[[F912]"relevant market" means—

(a) a recognised investment exchange, as defined in section 285(1)(a) (exemption for recognised exemption exchanges and clearance houses) of the Financial Services and Markets Act 2000 ("the Act"); and

(b) any other market which is a **[**[F913]UK regulated market or an EU regulated market**]**,

but not an overseas investment exchange, as defined by section 313 (interpretation of Part 18) of the Act.**]**

Textual Amendments

F912 Words in s. 853E(6) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (S.I. 2017/701), reg. 1(2)(3)(4)(6), **Sch. 4 para. 9(6)** (with reg. 7)

F913 Words in s. 853E(6) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 13**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C1148 Ss. 853A-853G applied by S.I. 2009/2436, Sch. 1 para. 13(1) (as substituted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 2 para. 2** (with reg. 4(2)-(5)))

C1149 Ss. 853A-853L excluded (1.5.2016 for specified purposes, 30.6.2016 in so far as not already in force) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(2), 7(1)(3), **Sch. para. 1(q)** (see S.I. 2016/321, regs. 5, 6)

853F Duty to deliver shareholder information: non-traded companies

(1) This section applies where—

(a) a non-traded company makes a confirmation statement, and

(b) there is no election in force under section 128B in respect of the company.

(2) A "non-traded company" is a company none of whose shares were, at any time during the confirmation period concerned, shares admitted to trading on a relevant market or on any other market which is outside the United Kingdom.

(3) The company must deliver the information falling within subsection (5) to the registrar at the same time as it delivers the confirmation statement.

(4) Subsection (3) does not apply if and to the extent that the information most recently delivered to the registrar under this section applies equally to the confirmation period concerned.

(5) The information is—

(a) the name (as it appears in the company's register of members) of every person who was at any time during the confirmation period a member of the company,

(b) the number of shares of each class held at the end of the confirmation date concerned by each person who was a member of the company at that time,

(c) the number of shares of each class transferred during the confirmation period concerned by or to each person who was a member of the company at any time during that period, and

(d) the dates of registration of those transfers.

(6) The registrar may impose requirements about the form in which information of the kind mentioned in subsection (5)(a) is delivered for the purpose of enabling the entries on the register relating to any given person to be easily found.

Modifications etc. (not altering text)

C1148 Ss. 853A-853G applied by S.I. 2009/2436, Sch. 1 para. 13(1) (as substituted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 2 para. 2** (with reg. 4(2)-(5)))

C1149 Ss. 853A-853L excluded (1.5.2016 for specified purposes, 30.6.2016 in so far as not already in force) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(2), 7(1)(3), **Sch. para. 1(q)** (see S.I. 2016/321, regs. 5, 6)

853G Duty to deliver shareholder information: certain traded companies

(1) This section applies where a traded company makes a confirmation statement.

(2) A "traded company" is a company any of whose shares were, at any time during the confirmation period concerned, shares admitted to trading on a relevant market or on any other market which is outside the United Kingdom.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(3) But a company is not a traded company if throughout the confirmation period concerned—

(a) there were shares of the company which were shares admitted to trading on a relevant market, and

(b) the company was a DTR5 issuer.

(4) The company must deliver the information falling within subsection (6) to the registrar at the same time as it delivers the confirmation statement.

(5) Subsection (4) does not apply if and to the extent the information most recently delivered to the registrar under this section applies equally to the confirmation period concerned.

(6) The information is—

(a) the name and address (as they appear in the company's register of members) of each person who, at the end of the confirmation date concerned, held at least 5% of the issued shares of any class of the company, and

(b) the number of shares of each class held by each such person at that time.

Modifications etc. (not altering text)

C1148 Ss. 853A-853G applied by S.I. 2009/2436, Sch. 1 para. 13(1) (as substituted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 2 para. 2** (with reg. 4(2)-(5)))

C1149 Ss. 853A-853L excluded (1.5.2016 for specified purposes, 30.6.2016 in so far as not already in force) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(2), 7(1)(3), **Sch. para. 1(q)** (see S.I. 2016/321, regs. 5, 6)

853H Duty to deliver information about exemption from Part 21A

(1) This section applies where a company [F914]... to which Part 21A does not apply (information about people with significant control, see section 790B), makes a confirmation statement.

(2) The company must deliver to the registrar a statement of the fact that it is a company to which Part 21A does not apply at the same time as it delivers the confirmation statement.

(3) Subsection (2) does not apply if the last statement delivered to the registrar under this section applies equally to the confirmation period concerned.

Textual Amendments

F914 Words in s. 853H(1) omitted (26.6.2017) by virtue of The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **10(4)** (with Sch. Pt. 1)

Modifications etc. (not altering text)

C1148 Ss. 853A-853G applied by S.I. 2009/2436, Sch. 1 para. 13(1) (as substituted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 2 para. 2** (with reg. 4(2)-(5)))

Status: *Point in time view as at 31/12/2020.*
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C1149 Ss. 853A-853L excluded (1.5.2016 for specified purposes, 30.6.2016 in so far as not already in force) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(2), 7(1)(3), **Sch. para. 1(q)** (see S.I. 2016/321, regs. 5, 6)

[F915]853I Duty to deliver information about people with significant control

. . . . . .

Textual Amendments

F915 S. 853I omitted (26.6.2017) by virtue of The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **10(5)** (with Sch. Pt. 1)

853J Power to amend duties to deliver certain information

(1) The Secretary of State may by regulations make provision about the duties on a company in relation to the delivery of information falling within section 853E(4), 853F(5), 853G(6) **[**[F916]or 853H(2)**]** (referred to in this section as "relevant information").

(2) The regulations may, in particular, make provision requiring relevant information to be delivered—

(a) on such occasions as may be prescribed;

(b) at such intervals as may be prescribed.

(3) The regulations may amend or repeal the provisions of sections 853A, 853B and 853E to **[**[F917]853H**]** .

(4) The regulations may provide—

(a) that where a company fails to comply with any duty to deliver relevant information an offence is committed by—

(i) the company,

(ii) every director of the company,

(iii) in the case of a private company with a secretary or a public company, every secretary of the company, and

(iv) every other officer of the company who is in default;

(b) that a person guilty of such an offence is liable on summary conviction—

(i) in England and Wales, to a fine and, for continued contravention, a daily default fine not exceeding the greater of £500 and one-tenth of level 4 on the standard scale;

(ii) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 5 on the standard scale;

(c) that, in the case of continued contravention, an offence is also committed by every officer of the company who did not commit an offence under provision made under paragraph (a) in relation to the initial contravention but who is in default in relation to the continued contravention;

(d) that a person guilty of such an offence is liable on summary conviction—

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(i) in England and Wales, to a fine not exceeding the greater of £500 and one-tenth of level 4 on the standard scale for each day on which the contravention continues and the person is in default;

(ii) in Scotland or Northern Ireland, to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the contravention continues and the person is in default.

(5) The regulations may provide that, for the purposes of any provision made under subsection (4), a shadow director is to be treated as a director.

(6) Regulations under this section are subject to affirmative resolution procedure.

Textual Amendments

F916 Words in s. 853J(1) substituted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **10(6)(a)** (with Sch. Pt. 1)

F917 Word in s. 853J(3) substituted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **10(6)(b)** (with Sch. Pt. 1)

Modifications etc. (not altering text)

C1149 Ss. 853A-853L excluded (1.5.2016 for specified purposes, 30.6.2016 in so far as not already in force) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(2), 7(1)(3), **Sch. para. 1(q)** (see S.I. 2016/321, regs. 5, 6)

853K Confirmation statements: power to make further provision by regulations

(1) The Secretary of State may by regulations make further provision as to the duties to deliver information to the registrar to which a confirmation statement is to relate.

(2) The regulations may—

(a) amend or repeal the provisions of sections 853A to **[**F918853H**]** , and

(b) provide for exceptions from the requirements of those sections as they have effect from time to time.

(3) Regulations under this section which provide that a confirmation statement must relate to a duty to deliver information not for the time being mentioned in section 853A(2) are subject to affirmative resolution procedure.

(4) Any other regulations under this section are subject to negative resolution procedure.

Textual Amendments

F918 Word in s. 853K(2)(a) substituted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **10(7)** (with Sch. Pt. 1)

Modifications etc. (not altering text)

C1149 Ss. 853A-853L excluded (1.5.2016 for specified purposes, 30.6.2016 in so far as not already in force) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(2), 7(1)(3), **Sch. para. 1(q)** (see S.I. 2016/321, regs. 5, 6)

C1154 Ss. 853K, 853L applied by S.I. 2009/2436, **Sch. 1 para. 13(1)** (as substituted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 2 para. 2** (with reg. 4(2)(3)))

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853L Failure to deliver confirmation statement

(1) If a company fails to deliver a confirmation statement before the end of the period of 14 days after the end of a review period an offence is committed by—

(a) the company,

(b) every director of the company,

(c) in the case of a private company with a secretary or a public company, every secretary of the company, and

(d) every other officer of the company who is in default.

For this purpose a shadow director is treated as a director.

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

(a) in England and Wales to a fine, and, for continued contravention, a daily default fine not exceeding the greater of £500 and one-tenth of level 4 on the standard scale;

(b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 5 on the standard scale.

(3) The contravention continues until such time as a confirmation statement specifying a confirmation date no later than the last day of the review period concerned is delivered by the company to the registrar.

(4) It is a defence for a director or secretary charged with an offence under subsection (1)(b) or (c) to prove that the person took all reasonable steps to avoid the commission or continuation of the offence.

(5) In the case of continued contravention, an offence is also committed by every officer of the company who did not commit an offence under subsection (1) in relation to the initial contravention but who is in default in relation to the continued contravention.

(6) A person guilty of an offence under subsection (5) is liable on summary conviction—

(a) in England and Wales, to a fine not exceeding the greater of £500 and one-tenth of level 4 on the standard scale for each day on which the contravention continues and the person is in default;

(b) in Scotland or Northern Ireland, to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the contravention continues and the person is in default.**]**

Modifications etc. (not altering text)

C1149 Ss. 853A-853L excluded (1.5.2016 for specified purposes, 30.6.2016 in so far as not already in force) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(2), 7(1)(3), **Sch. para. 1(q)** (see S.I. 2016/321, regs. 5, 6)

C1154 Ss. 853K, 853L applied by S.I. 2009/2436, **Sch. 1 para. 13(1)** (as substituted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 2 para. 2** (with reg. 4(2)(3)))

C1155 S. 853L applied (with modifications) by S.I. 2009/1804 reg. 31ZA (as substituted (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 1 para. 5** (with reg. 3(2)-(4)))

C1156 S. 853L(1) modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **17**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F909F919 854 Duty to deliver annual returns

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Textual Amendments

F919 Ss. 854-859 Amendment to earlier affecting provision SI 2009/2436 Sch. 2 para 13(1) (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **34** (with Sch. Pt. 3)

F909F919 855 Contents of annual return: general

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Textual Amendments

F919 Ss. 854-859 Amendment to earlier affecting provision SI 2009/2436 Sch. 2 para 13(1) (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **34** (with Sch. Pt. 3)

F909F919 855A Required particulars of directors and secretaries

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Textual Amendments

F919 Ss. 854-859 Amendment to earlier affecting provision SI 2009/2436 Sch. 2 para 13(1) (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **34** (with Sch. Pt. 3)

F909F919 856 Contents of annual return: information about shares and share capital

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Textual Amendments

F919 Ss. 854-859 Amendment to earlier affecting provision SI 2009/2436 Sch. 2 para 13(1) (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **34** (with Sch. Pt. 3)

F909F919 856A Contents of annual return: information about shareholders: non-traded companies

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Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F919 Ss. 854-859 Amendment to earlier affecting provision SI 2009/2436 Sch. 2 para 13(1) (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **34** (with Sch. Pt. 3)

F909F919 856B Contents of annual return: information about shareholders: certain traded companies

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Textual Amendments

F919 Ss. 854-859 Amendment to earlier affecting provision SI 2009/2436 Sch. 2 para 13(1) (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **34** (with Sch. Pt. 3)

F909F919 857 Contents of annual return: power to make further provision by regulations

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Textual Amendments

F919 Ss. 854-859 Amendment to earlier affecting provision SI 2009/2436 Sch. 2 para 13(1) (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **34** (with Sch. Pt. 3)

F909F919 858 Failure to deliver annual return

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Textual Amendments

F919 Ss. 854-859 Amendment to earlier affecting provision SI 2009/2436 Sch. 2 para 13(1) (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **34** (with Sch. Pt. 3)

F909F919 859 Application of provisions to shadow directors

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Textual Amendments

F919 Ss. 854-859 Amendment to earlier affecting provision SI 2009/2436 Sch. 2 para 13(1) (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **34** (with Sch. Pt. 3)

Status: *Point in time view as at 31/12/2020.*
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PART 25

COMPANY CHARGES

Modifications etc. (not altering text)

C1157 Pt. 25 modified (10.1.2015) by The Building Societies (Bail-in) Order 2014 (S.I. 2014/3344), arts. 1, **3(3)**

C1158 Pt. 25 modified (16.12.2016) by The Bank Recovery and Resolution Order 2016 (S.I. 2016/1239), arts. 1(2), **28(3)**

C1159 Pt. 25 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **155(1)**(2) (with regs. 161, 189)

C1160 Pt. 25 excluded (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2001 (c. 1), **s. 252(1)** (with s. 247); S.I. 2009/296, **arts. 2**, 3, Sch.

C1161 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

[F920 CHAPTER A1

REGISTRATION OF COMPANY CHARGES

Textual Amendments

F920 Pt. 25 Ch. A1 inserted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), regs. 1, 2, **Sch. 1** (with reg. 6)

Company charges

859A Charges created by a company

(1) Subject to subsection (6), this section applies where a company creates a charge.

(2) The registrar must register the charge if, before the end of the period allowed for delivery, the company or any person interested in the charge delivers to the registrar for registration a section 859D statement of particulars.

(3) Where the charge is created or evidenced by an instrument, the registrar is required to register it only if a certified copy of the instrument is delivered to the registrar with the statement of particulars.

(4) "The period allowed for delivery" is 21 days beginning with the day after the date of creation of the charge (see section 859E), unless an order allowing an extended period is made under section 859F(3).

(5) Where an order is made under section 859F(3) a copy of the order must be delivered to the registrar with the statement of particulars.

(6) This section does not apply to—

(a) a charge in favour of a landlord on a cash deposit given as a security in connection with the lease of land;

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(b) a charge created by a member of Lloyd's (within the meaning of the Lloyd's Act 1982 [F921]) to secure its obligations in connection with its underwriting business at Lloyd's;

(c) a charge excluded from the application of this section by or under any other Act.

(7) In this Part—

"cash" includes foreign currency,

"charge" includes—

(a) a mortgage;

(b) a standard security, assignation in security, and any other right in security constituted under the law of Scotland, including any heritable security, but not including a pledge, and

"company" means a UK-registered company.

Textual Amendments

F921 1982 c.xiv.

Modifications etc. (not altering text)

C1162 S. 859A: power to modify conferred (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), **ss. 39(1)**, 40(e), 49(1) (with ss. 2(2), 5(2), 39(8)(9))

C1163 S. 859A excluded (23.3.2015 coming into force in accordance with reg. 2) by The International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015 (S.I. 2015/912), reg. 2, **Sch. 5 para. 9** (with reg. 51)

C1164 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

C1165 S. 859A(4) modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **18**

859B Charge in series of debentures

(1) This section applies where—

(a) a company creates a series of debentures containing a charge, or giving a charge by reference to another instrument, and

(b) debenture holders of that series are entitled to the benefit of the charge pari passu.

(2) The registrar must register the charge if, before the end of the period allowed for delivery, the company or any person interested in the charge delivers to the registrar for registration, a section 859D statement of particulars which also contains the following—

(a) either—

(i) the name of each of the trustees for the debenture holders, or

(ii) where there are more than four such persons, the names of any four persons listed in the charge instrument as trustees for the debenture holders, and a statement that there are other such persons;

(b) the dates of the resolutions authorising the issue of the series;

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(c) the date of the covering instrument (if any) by which the series is created or defined.

(3) Where the charge is created or evidenced by an instrument, the registrar is required to register it only if a certified copy of the instrument is delivered to the registrar with the statement of particulars.

(4) Where the charge is not created or evidenced by an instrument, the registrar is required to register it only if a certified copy of one of the debentures in the series is delivered to the registrar with the statement of particulars.

(5) For the purposes of this section a statement of particulars is taken to be a section 859D statement of particulars even if it does not contain the names of the debenture holders.

(6) "The period allowed for delivery" is—

(a) if there is a deed containing the charge, 21 days beginning with the day after the date on which the deed is executed;

(b) if there is no deed containing the charge, 21 days beginning with the day after the date on which the first debenture of the series is executed.

(7) Where an order is made under section 859F(3) a copy of the order must be delivered to the registrar with the statement of particulars.

(8) In this section " deed " means—

(a) a deed governed by the law of England and Wales or Northern Ireland, or

(b) an instrument governed by a law other than the law of England and Wales or Northern Ireland which requires delivery under that law in order to take effect.

Modifications etc. (not altering text)

C1166 S. 859B: power to modify conferred (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), **ss. 39(1)**, 40(e), 49(1) (with ss. 2(2), 5(2), 39(8)(9))

C1167 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

C1168 S. 859B(6) modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **19**

859C Charges existing on property or undertaking acquired

(1) This section applies where a company acquires property or undertaking which is subject to a charge of a kind which would, if it had been created by the company after the acquisition of the property or undertaking, have been capable of being registered under section 859A.

(2) The registrar must register the charge if the company or any person interested in the charge delivers to the registrar for registration a section 859D statement of particulars.

(3) Where the charge is created or evidenced by an instrument, the registrar is required to register it only if a certified copy of the instrument is delivered to the registrar with the statement of particulars.

Status: *Point in time view as at 31/12/2020.*
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Modifications etc. (not altering text)

C1169 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

C1170 S. 859C(2)(3) applied (10.1.2015) by The Building Societies (Bail-in) Order 2014 (S.I. 2014/3344), arts. 1, **3(1)**

C1171 S. 859C(2)(3) applied (16.12.2016) by The Bank Recovery and Resolution Order 2016 (S.I. 2016/1239), arts. 1(2), **28(1)** (with art. 28(2))

859D Particulars to be delivered to registrar

(1) A statement of particulars relating to a charge created by a company is a "section 859D statement of particulars" if it contains the following particulars—

(a) the registered name and number of the company;

(b) the date of creation of the charge and (if the charge is one to which section 859C applies) the date of acquisition of the property or undertaking concerned;

(c) where the charge is created or evidenced by an instrument, the particulars listed in subsection (2);

(d) where the charge is not created or evidenced by an instrument, the particulars listed in subsection (3).

(2) The particulars referred to in subsection (1)(c) are—

(a) any of the following—

(i) the name of each of the persons in whose favour the charge has been created or of the security agents or trustees holding the charge for the benefit of one or more persons; or,

(ii) where there are more than four such persons, security agents or trustees, the names of any four such persons, security agents or trustees listed in the charge instrument, and a statement that there are other such persons, security agents or trustees;

(b) whether the instrument is expressed to contain a floating charge and, if so, whether it is expressed to cover all the property and undertaking of the company;

(c) whether any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge;

(d) whether (and if so, a short description of) any land, ship, aircraft or intellectual property that is registered or required to be registered in the United Kingdom, is subject to a charge (which is not a floating charge) or fixed security included in the instrument;

(e) whether the instrument includes a charge (which is not a floating charge) or fixed security over—

(i) any tangible or corporeal property, or

(ii) any intangible or incorporeal property,

not described in paragraph (d).

(3) The particulars referred to in subsection (1)(d) are—

(a) a statement that there is no instrument creating or evidencing the charge;

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(b) the names of each of the persons in whose favour the charge has been created or the names of any security agents or trustees holding the charge for the benefit of one or more persons;
(c) the nature of the charge;
(d) a short description of the property or undertaking charged;
(e) the obligations secured by the charge.

(4) In this section " fixed security " has the meaning given in section 486(1) of the Companies Act 1985 [F922] .

(5) In this section " intellectual property " includes—
(a) any patent, trade mark, registered design, copyright or design right;
(b) any licence under or in respect of any such right.

Textual Amendments

F922 1985 c.6. Section 486 is repealed by section 46(1) of the Bankruptcy and Diligence etc (Scotland) Act 2007 (2007 asp 3) from a day to be appointed.

Modifications etc. (not altering text)

C1172 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

859E Date of creation of charge

(1) For the purposes of this Part, a charge of the type described in column 1 of the Table below is taken to be created on the date given in relation to it in column 2 of that Table.

1. Type of charge	*2. When charge created*
Standard security	The date of its recording in the Register of Sasines or its registration in the Land Register of Scotland
Charge other than a standard security, where created or evidenced by an instrument	Where the instrument is a deed that has been executed and has immediate effect on execution and delivery, the date of delivery
	Where the instrument is a deed that has been executed and held in escrow, the date of delivery into escrow
	Where the instrument is a deed that has been executed and held as undelivered, the date of delivery
	Where the instrument is not a deed and has immediate effect on execution, the date of execution
	Where the instrument is not a deed and does not have immediate effect on execution, the date on which the instrument takes effect

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Charge other than a standard security, where not created or evidenced by an instrument	The date on which the charge comes into effect.

(2) Where a charge is created or evidenced by an instrument made between two or more parties, references in the Table in subsection (1) to execution are to execution by all the parties to the instrument whose execution is essential for the instrument to take effect as a charge.

(3) This section applies for the purposes of this Chapter even if further forms, notices, registrations or other actions or proceedings are necessary to make the charge valid or effectual for any other purposes.

(4) For the purposes of this Chapter, the registrar is entitled without further enquiry to accept a charge as created on the date given as the date of creation of the charge in a section 859D statement of particulars.

(5) In this section " deed " means—

(a) a deed governed by the law of England and Wales or Northern Ireland, or

(b) an instrument governed by a law other than the law of England and Wales or Northern Ireland which requires delivery under that law in order to take effect.

(6) References in this section to delivery, in relation to a deed, include delivery as a deed where required.

Modifications etc. (not altering text)

C1173 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

859F Extension of period allowed for delivery

(1) Subsection (3) applies if the court is satisfied that—

(a) neither the company nor any other person interested in the charge has delivered to the registrar the documents required under section 859A or (as the case may be) 859B before the end of the period allowed for delivery under the section concerned, and

(b) the requirement in subsection (2) is met.

(2) The requirement is—

(a) that the failure to deliver those documents—

(i) was accidental or due to inadvertence or to some other sufficient cause, or

(ii) is not of a nature to prejudice the position of creditors or shareholders of the company, or

(b) that on other grounds it is just and equitable to grant relief.

(3) The court may, on the application of the company or a person interested, and on such terms and conditions as seem to the court just and expedient, order that the period allowed for delivery be extended.

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Modifications etc. (not altering text)

C1174 S. 859F applied (with modifications) by 1985 c. 6, s. 466(4E)(4F) (as inserted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 1(3)** (with reg. 6))

C1175 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

859G Personal information etc in certified copies

(1) The following are not required to be included in a certified copy of an instrument or debenture delivered to the registrar for the purposes of any provision of this Chapter—

(a) personal information relating to an individual (other than the name of an individual);

(b) the number or other identifier of a bank or securities account of a company or individual;

(c) a signature.

(2) The registrar is entitled without further enquiry, to accept the certified copy of an instrument whether or not any of the information in subsection (1) is contained within the instrument.

Modifications etc. (not altering text)

C1176 S. 859G applied (with modifications) by 1985 c. 6, s. 466(4E)(4F) (as inserted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 1(3)** (with reg. 6))

C1177 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

Consequence of non-delivery

859H Consequence of failure to deliver charges

(1) This section applies if—

(a) a company creates a charge to which section 859A or 859B applies, and

(b) the documents required by section 859A or (as the case may be) 859B are not delivered to the registrar by the company or another person interested in the charge before the end of the relevant period allowed for delivery.

(2) "The relevant period allowed for delivery" is—

(a) the period allowed for delivery under the section in question, or

(b) if an order under section 859F(3) has been made, the period allowed by the order.

(3) Where this section applies, the charge is void (so far as any security on the company's property or undertaking is conferred by it) against—

(a) a liquidator of the company,

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(b) an administrator of the company, and

(c) a creditor of the company.

(4) Subsection (3) is without prejudice to any contract or obligation for repayment of the money secured by the charge; and when a charge becomes void under this section, the money secured by it immediately becomes payable.

Modifications etc. (not altering text)

C1178 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

The register

859I Entries on the register

(1) This section applies where a charge is registered in accordance with a provision of this Chapter.

(2) The registrar must—

(a) allocate to the charge a unique reference code and place a note in the register recording that reference code; and

(b) include in the register any documents delivered under section 859A(3) or (5), 859B(3), (4) or (7), or 859C(3).

(3) The registrar must give a certificate of the registration of the charge to the person who delivered to the registrar a section 859D statement of particulars relating to the charge.

(4) The certificate must state—

(a) the registered name and number of the company in respect of which the charge was registered; and

(b) the unique reference code allocated to the charge.

(5) The certificate must be signed by the registrar or authenticated by the registrar's official seal.

(6) In the case of registration under section 859A or 859B, the certificate is conclusive evidence that the documents required by the section concerned were delivered to the registrar before the end of the relevant period allowed for delivery.

(7) "The relevant period allowed for delivery" is—

(a) the period allowed for delivery under the section in question, or

(b) if an order under section 859F(3) has been made, the period allowed by the order.

Modifications etc. (not altering text)

C1179 S. 859I applied (with modifications) by 1985 c. 6, s. 466(4E)(4F) (as inserted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 1(3)** (with reg. 6))

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

C1180 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

859J Company holding property or undertaking as trustee

(1) Where a company is acting as trustee of property or undertaking which is the subject of a charge delivered for registration under this Chapter, the company or any person interested in the charge may deliver to the registrar a statement to that effect.

(2) A statement delivered after the delivery for registration of the charge must include—

(a) the registered name and number of the company; and

(b) the unique reference code allocated to the charge.

Modifications etc. (not altering text)

C1181 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

859K Registration of enforcement of security

(1) Subsection (2) applies where a person—

(a) obtains an order for the appointment of a receiver or manager of a company's property or undertaking, or

(b) appoints such a receiver or manager under powers contained in an instrument.

(2) The person must, within 7 days of the order or of the appointment under those powers—

(a) give notice to the registrar of that fact, and

(b) if the order was obtained, or the appointment made, by virtue of a registered charge held by the person give the registrar a notice containing—

(i) in the case of a charge created before 6th April 2013, the information specified in subsection (4);

(ii) in the case of a charge created on or after 6th April 2013, the unique reference code allocated to the charge.

(3) Where a person appointed receiver or manager of a company's property or undertaking under powers contained in an instrument ceases to act as such a receiver or manager, the person must, on so ceasing—

(a) give notice to the registrar of that fact, and

(b) give the registrar a notice containing—

(i) in the case of a charge created before 6th April 2013, the information specified in subsection (4), or

(ii) in the case of a charge created on or after 6th April 2013, the unique reference code allocated to the charge.

(4) The information referred to in subsections (2)(b)(i) and (3)(b)(i) is—

(a) the date of the creation of the charge;

(b) a description of the instrument (if any) creating or evidencing the charge;

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(c) short particulars of the property or undertaking charged.

(5) The registrar must include in the register—

(a) a fact of which notice is given under subsection (2)(a), and

(b) a fact of which notice is given under subsection (3)(a).

(6) A person who makes default in complying with the requirements of subsections (2) or (3) of this section commits an offence.

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

(8) This section applies only to a receiver or manager appointed—

(a) by a court in England and Wales or Northern Ireland, or

(b) under an instrument governed by the law of England and Wales or Northern Ireland.

(9) This section does not apply to a receiver appointed under Chapter 2 of Part 3 of the Insolvency Act 1986 (receivers (Scotland)) [F923] .

Textual Amendments

F923 1986 c.45.

Modifications etc. (not altering text)

C1182 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

C1183 S. 859K power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1184 S. 859K modified (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **4(1)**, 39(c) (with regs. 1(2), 3(c))

859L Entries of satisfaction and release

(1) Subsection (5) applies if the statement set out in subsection (2) and the particulars set out in subsection (4) are delivered to the registrar with respect to a registered charge.

(2) The statement referred to in subsection (1) is a statement to the effect that—

(a) the debt for which the charge was given has been paid or satisfied in whole or in part, or

(b) all or part of the property or undertaking charged—

(i) has been released from the charge, or

(ii) has ceased to form part of the company's property or undertaking.

(3) Where a statement within subsection (2)(b) relates to part only of the property or undertaking charged, the statement must include a short description of that part.

(4) The particulars referred to in subsection (1) are—

(a) the name and address of the person delivering the statement and an indication of their interest in the charge;

(b) the registered name and number of the company that—

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(i) created the charge (in a case within section 859A or 859B), or

(ii) acquired the property or undertaking subject to the charge (in a case within section 859C);

(c) in respect of a charge created before 6th April 2013—

(i) the date of creation of the charge;

(ii) a description of the instrument (if any) by which the charge is created or evidenced;

(iii) short particulars of the property or undertaking charged;

(d) in respect of a charge created on or after 6th April 2013, the unique reference code allocated to the charge.

(5) The registrar must include in the register—

(a) a statement of satisfaction in whole or in part, or

(b) a statement of the fact that all or part of the property or undertaking has been released from the charge or has ceased to form part of the company's property or undertaking (as the case may be).

Modifications etc. (not altering text)

C1185 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

859M Rectification of register

(1) Subsection (3) applies if the court is satisfied that—

(a) there has been an omission or mis-statement in any statement or notice delivered to the registrar in accordance with this Chapter, and

(b) the requirement in subsection (2) is met.

(2) The requirement is that the court is satisfied—

(a) that the omission or mis-statement—

(i) was accidental or due to inadvertence or to some other sufficient cause, or

(ii) is not of a nature to prejudice the position of creditors or shareholders of the company, or

(b) that on other grounds it is just and equitable to grant relief.

(3) The court may, on the application of the company or a person interested, and on such terms and conditions as seem to the court just and expedient, order that the omission or mis-statement be rectified.

(4) A copy of the court's order must be sent by the applicant to the registrar for registration.

Modifications etc. (not altering text)

C1186S. 859M applied (with modifications) by 1985 c. 6, s. 466(4E)(4F) (as inserted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 1(3)** (with reg. 6))

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C1187 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

859N Replacement of instrument or debenture

(1) Subsection (2) applies if the court is satisfied that—

(a) a copy of an instrument or debenture delivered to the registrar under this Chapter contains material which could have been omitted under section 859G;

(b) the wrong instrument or debenture was delivered to the registrar; or

(c) the copy was defective.

(2) The court may, on the application of the company or a person interested, and on such terms and conditions as seem to the court just and expedient, order that the copy of the instrument or debenture be removed from the register and replaced.

(3) A copy of the court's order must be sent by the applicant to the registrar for registration.

Modifications etc. (not altering text)

C1188 S. 859N applied (with modifications) by 1985 c. 6, s. 466(4E)(4F) (as inserted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 1(3)** (with reg. 6))

C1189 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

859O Notification of addition to or amendment of charge

(1) This section applies where, after the creation of a charge, the charge is amended by adding or amending a term that—

(a) prohibits or restricts the creation of any fixed security or any other charge having priority over, or ranking pari passu with, the charge; or

(b) varies, or otherwise regulates the order of, the ranking of the charge in relation to any fixed security or any other charge.

(2) Either the company that created the charge or the person taking the benefit of the charge (or another charge referred to in subsection (1)(b)) may deliver to the registrar for registration—

(a) a certified copy of the instrument effecting the amendment, variation or regulation, and

(b) a statement of the particulars set out in subsection (3).

(3) The particulars to be included in the statement are—

(a) the registered name and number of the company;

(b) in the case of a charge created before 6th April 2013—

(i) the date of creation of the charge;

(ii) a description of the instrument (if any) by which the charge was created or evidenced;

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(iii) short particulars of the property or undertaking charged as set out when the charge was registered;

(c) in the case of a charge created on or after 6th April 2013, (where allocated) the unique reference code allocated to the charge.

(4) Subsections (1) to (3) do not affect the continued application of section 466 of the Companies Act 1985 [F924] .

(5) In this section " fixed security " has the meaning given in section 486(1) of the Companies Act 1985.

Textual Amendments

F924 Section 466 is repealed by section 46(1) of the Bankruptcy and Diligence etc (Scotland) Act 2007 (2007 asp 3) from a day to be appointed.

Modifications etc. (not altering text)

C1190 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

Companies' records and registers

859P Companies to keep copies of instruments creating and amending charges

(1) A company must keep available for inspection a copy of every—

(a) instrument creating a charge capable of registration under this Chapter, and

(b) instrument effecting any variation or amendment of such a charge.

(2) In the case of a charge contained in a series of uniform debentures, a copy of one of the debentures of the series is sufficient for the purposes of subsection (1)(a).

(3) If the particulars referred to in section 859D(1) or the particulars of the property or undertaking charged are not contained in the instrument creating the charge, but are instead contained in other documents which are referred to in or otherwise incorporated into the instrument, then the company must also keep available for inspection a copy of those other documents.

(4) It is sufficient for the purposes of subsection (1)(a) if the company keeps a copy of the instrument in the form delivered to the registrar under section 859A(3), 859B(3) or (4) or 859C(3).

(5) Where a translation has been delivered to the registrar in accordance with section 1105, the company must keep available for inspection a copy of the translation.

Modifications etc. (not altering text)

C1191 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

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859Q Instruments creating charges to be available for inspection

(1) This section applies to documents required to be kept available for inspection under section 859P (copies of instruments creating and amending charges).

(2) The documents must be kept available for inspection—

(a) at the company's registered office, or

(b) at a place specified in regulations under section 1136.

(3) The company must give notice to the registrar—

(a) of the place at which the documents are kept available for inspection, and

(b) of any change in that place,

unless they have at all times been kept at the company's registered office.

(4) The documents must be open to the inspection—

(a) of any creditor or member of the company, without charge, and

(b) of any other person, on payment of such fee as may be prescribed.

(5) If default is made for 14 days in complying with subsection (3) or an inspection required under subsection (4) is refused, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

(7) If an inspection required under subsection (4) is refused the court may by order compel an immediate inspection.

(8) Where the company and a person wishing to carry out an inspection under subsection (4) agree, the inspection may be carried out by electronic means.**]**

Modifications etc. (not altering text)

C1192 S. 859Q: power to modify conferred (temp.) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), **ss. 39(1)**, 40(e), 49(1) (with ss. 2(2), 5(2), 39(8)(9))

C1193 Ss. 859A-859Q applied (with modifications) (6.4.2013) by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 (S.I. 2013/618), regs. 1(2), 2, **Sch.** (with reg. 8)

C1194 S. 859Q modified (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **11(a)(xiii)**

C1195 S. 859Q(5) modified (temp.) (27.6.2020) by The Companies etc. (Filing Requirements) (Temporary Modifications) Regulations 2020 (S.I. 2020/645), regs. 2, **20**

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F925F925CHAPTER 1

COMPANIES REGISTERED IN ENGLAND AND WALES OR IN NORTHERN IRELAND

Textual Amendments

F925 Pt. 25 Chs. 1, 2 repealed (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), regs. 1, **3**

Requirement to register company charges

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Special rules about debentures

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Charges in other jurisdictions

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Orders charging land: Northern Ireland

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The register of charges

. . . . . .

Avoidance of certain charges

. . . . . .

Companies' records and registers

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F926F926CHAPTER 2

COMPANIES REGISTERED IN SCOTLAND

Textual Amendments

F926 Pt. 25 Chs. 1, 2 repealed (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), regs. 1, **3**

Charges requiring registration

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Special rules about debentures

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Charges on property outside the United Kingdom

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The register of charges

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Avoidance of certain charges

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Companies' records and registers

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CHAPTER 3

POWERS OF THE SECRETARY OF STATE

893 Power to make provision for effect of registration in special register

(1) In this section a "special register" means a register, other than **[**F927the register**]**, in which a charge to which **[**F928Chapter A1**]** applies is required or authorised to be registered.

(2) The Secretary of State may by order make provision for facilitating the making of information-sharing arrangements between the person responsible for maintaining a special register ("the responsible person") and the registrar that meet the requirement in subsection (4).

"Information-sharing arrangements" are arrangements to share and make use of information held by the registrar or by the responsible person.

(3) If the Secretary of State is satisfied that appropriate information-sharing arrangements have been made, he may by order provide that—

(a) the registrar is authorised not to register a charge of a specified description under **[**F929Chapter A1**]**,

(b) a charge of a specified description that is registered in the special register within a specified period is to be treated as if it had been registered (and certified by the registrar as registered) in accordance with the requirements of **[**F930Chapter A1**]**, and

(c) the other provisions of **[**F931Chapter A1**]** apply to a charge so treated with specified modifications.

(4) The information-sharing arrangements must ensure that persons inspecting the **[**F932register**]**—

(a) are made aware, in a manner appropriate to the inspection, of the existence of charges in the special register which are treated in accordance with provision so made, and

(b) are able to obtain information from the special register about any such charge.

(5) An order under this section may—

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(a) modify any enactment or rule of law which would otherwise restrict or prevent the responsible person from entering into or giving effect to information-sharing arrangements,

(b) authorise the responsible person to require information to be provided to him for the purposes of the arrangements,

(c) make provision about—

(i) the charging by the responsible person of fees in connection with the arrangements and the destination of such fees (including provision modifying any enactment which would otherwise apply in relation to fees payable to the responsible person), and

(ii) the making of payments under the arrangements by the registrar to the responsible person,

(d) require the registrar to make copies of the arrangements available to the public (in hard copy or electronic form).

(6) In this section "specified" means specified in an order under this section.

(7) A description of charge may be specified, in particular, by reference to one or more of the following—

(a) the type of company by which it is created,

(b) the form of charge which it is,

(c) the description of assets over which it is granted,

(d) the length of the period between the date of its registration in the special register and the date of its creation.

(8) Provision may be made under this section relating to registers maintained under the law of a country or territory outside the United Kingdom.

(9) An order under this section is subject to negative resolution procedure.

Textual Amendments

F927 Words in s. 893(1) substituted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 3(2)(a)** (with reg. 6)

F928 Words in s. 893(1) substituted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 3(2)(b)** (with reg. 6)

F929 Words in s. 893(3)(a) substituted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 3(2)(c)** (with reg. 6)

F930 Words in s. 893(3)(b) substituted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 3(2)(d)** (with reg. 6)

F931 Words in s. 893(3)(c) substituted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 3(2)(e)** (with reg. 6)

F932 Word in s. 893(4) substituted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 3(2)(f)** (with reg. 6)

Commencement Information

I323 S. 893 wholly in force at 1.10.2009; s. 893 not in force at Royal Assent, see s. 1300; s. 893 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 893 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(n)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

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894 General power to make amendments to this Part

(1) The Secretary of State may by regulations under this section—

(a) amend this Part by altering, adding or repealing provisions,

(b) make consequential amendments or repeals in this Act or any other enactment (whether passed or made before or after this Act).

(2) Regulations under this section are subject to affirmative resolution procedure.

Commencement Information

I324 S. 894 wholly in force at 1.10.2009; s. 894 not in force at Royal Assent, see s. 1300; s. 894 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 894 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(n)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

F933 PART 26

[F934 ARRANGEMENTS AND RECONSTRUCTIONS: GENERAL]

Textual Amendments

F933 Pt. 26 applied (with modifications) (E.W.S.) (6.4.2014) by The Industrial and Provident Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014 (S.I. 2014/229), arts. 1, 2(3), **Sch. 2** (as amended (1.8.2014) by The Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) (Amendment) Order 2014 (S.I. 2014/1822), arts. 1(2), **6**)

F934 Pt. 26 heading substituted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 35(2)** (with ss. 2(2), 5(2))

Modifications etc. (not altering text)

C1229 Pt. 26 power to apply (with modifications) conferred (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), **s. 118(1)**(2)154 (with Sch. 5)

C1230 Pt. 26 applied (6.4.2008) by S.I. 2001/1228, Sch. 6 paras. 5, 6 (as amended by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 223(4)** (with arts. 6, 11, 12))

C1231 Pt. 26 applied (6.4.2008) by 2000 c. 8, s. 105(5) (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 211(1)** (with arts. 6, 11, 12))

C1232 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

Application of this Part

895 Application of this Part

(1) The provisions of this Part apply where a compromise or arrangement is proposed between a company and—

(a) its creditors, or any class of them, or

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(b) its members, or any class of them.

(2) In this Part—

"arrangement" includes a reorganisation of the company's share capital by the consolidation of shares of different classes or by the division of shares into shares of different classes, or by both of those methods; and

"company"—

(a) in section 900 (powers of court to facilitate reconstruction or amalgamation) means a company within the meaning of this Act, and

(b) elsewhere in this Part means any company liable to be wound up under the Insolvency Act 1986 (c. 45) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

(3) The provisions of this Part have effect subject to Part 27 (mergers and divisions of public companies) where that Part applies (see sections 902 and 903).

Modifications etc. (not altering text)

C1233 Ss. 895-900 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 45 (as amended (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 2(3)(a)(b)(c))**

Meeting of creditors or members

896 Court order for holding of meeting

(1) The court may, on an application under this section, order a meeting of the creditors or class of creditors, or of the members of the company or class of members (as the case may be), to be summoned in such manner as the court directs.

(2) An application under this section may be made by—

(a) the company,

(b) any creditor or member of the company,

[[F935](c) if the company is being wound up, the liquidator, or

(d) if the company is in administration, the administrator.**]**

[[F936](3) Section 323 (representation of corporations at meetings) applies to a meeting of creditors under this section as to a meeting of the company (references to a member of the company being read as references to a creditor).**]**

[[F937](4) This section is subject to section 899A (moratorium debts, etc).**]**

Textual Amendments

F935 S. 896(2)(c)(d) substituted (6.4.2008) for s. 896(2)(c) and preceding word by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 249(2)** (with arts. 6, 11, 12)

F936 S. 896(3) added (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 249(3)** (with arts. 6, 11, 12)

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F937 S. 896(4) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 35(3)** (with ss. 2(2), 5(2))

Modifications etc. (not altering text)

C1233 Ss. 895-900 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 45 (as amended (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 2(3)(a)(b)(c))**

897 Statement to be circulated or made available

(1) Where a meeting is summoned under section 896—

(a) every notice summoning the meeting that is sent to a creditor or member must be accompanied by a statement complying with this section, and

(b) every notice summoning the meeting that is given by advertisement must either—

(i) include such a statement, or

(ii) state where and how creditors or members entitled to attend the meeting may obtain copies of such a statement.

(2) The statement must—

(a) explain the effect of the compromise or arrangement, and

(b) in particular, state—

(i) any material interests of the directors of the company (whether as directors or as members or as creditors of the company or otherwise), and

(ii) the effect on those interests of the compromise or arrangement, in so far as it is different from the effect on the like interests of other persons.

(3) Where the compromise or arrangement affects the rights of debenture holders of the company, the statement must give the like explanation as respects the trustees of any deed for securing the issue of the debentures as it is required to give as respects the company's directors.

(4) Where a notice given by advertisement states that copies of an explanatory statement can be obtained by creditors or members entitled to attend the meeting, every such creditor or member is entitled, on making application in the manner indicated by the notice, to be provided by the company with a copy of the statement free of charge.

(5) If a company makes default in complying with any requirement of this section, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

This is subject to subsection (7) below.

(6) For this purpose the following are treated as officers of the company—

(a) a liquidator or administrator of the company, and

(b) a trustee of a deed for securing the issue of debentures of the company.

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(7) A person is not guilty of an offence under this section if he shows that the default was due to the refusal of a director or trustee for debenture holders to supply the necessary particulars of his interests.

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

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

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

Modifications etc. (not altering text)

C1233 Ss. 895-900 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 45 (as amended (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 2(3)(a)(b)(c))**

898 Duty of directors and trustees to provide information

(1) It is the duty of—

(a) any director of the company, and

(b) any trustee for its debenture holders,

to give notice to the company of such matters relating to himself as may be necessary for the purposes of section 897 (explanatory statement to be circulated or made available).

(2) Any person who makes default in complying with this section commits an offence.

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

Modifications etc. (not altering text)

C1233 Ss. 895-900 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 45 (as amended (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 2(3)(a)(b)(c))**

Court sanction for compromise or arrangement

899 Court sanction for compromise or arrangement

(1) If a majority in number representing 75% in value of the creditors or class of creditors or members or class of members (as the case may be), present and voting either in person or by proxy at the meeting summoned under section 896, agree a compromise or arrangement, the court may, on an application under this section, sanction the compromise or arrangement.

[[F938](1A) Subsection (1) is subject to section 899A (moratorium debts, etc).**]**

(2) An application under this section may be made by—

(a) the company,

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(b) any creditor or member of the company,

(c) if the company is being wound up or an administration order is in force in relation it, the liquidator or administrator.

[F939(c) if the company is being wound up, the liquidator, or

(d) if the company is in administration, the administrator.**]**

(3) A compromise or **[**F940arrangement**]** sanctioned by the court is binding on—

(a) all creditors or the class of creditors or on the members or class of members (as the case may be), and

(b) the company or, in the case of a company in the course of being wound up, the liquidator and contributories of the company.

(4) The court's order has no effect until a copy of it has been delivered to the registrar.

F941(5) . . . . . .

Textual Amendments

F938 S. 899(1A) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 35(4)(a)** (with ss. 2(2), 5(2))

F939 S. 899(2)(c)(d) substituted (6.4.2008) for s. 899(2)(c) and preceding word by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 250(2)** (with arts. 6, 11, 12)

F940 Word in s. 899(3) substituted (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), **art. 28(3)**

F941 S. 899(5) omitted (26.6.2020) by virtue of Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 35(4)(b)** (with ss. 2(2), 5(2))

Modifications etc. (not altering text)

C1233 Ss. 895-900 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 45 (as amended (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 2(3)(a)(b)(c))**

C1234 S. 899 applied (with modifications) (N.I) (14.11.2008) The Insolvency (Company Arrangement or Administration Provisions for an Industrial and Provident Society) Order (Northern Ireland) 2008 (S.R. 2008/445), **art. 2**

C1235 S. 899 applied (with modifications) (23.11.2009) by The Scottish and Northern Ireland Banknote Regulations 2009 (S.I. 2009/3056), reg. 29, **Sch. 1 para. 3**

[F942 Special cases

Textual Amendments

F942 S. 899A and cross-heading inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 35(5)** (with ss. 2(2), 5(2))

899A Moratorium debts, etc

(1) This section applies where—

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(a) an application under section 896 in respect of a compromise or arrangement is made before the end of the period of 12 weeks beginning with the day after the end of any moratorium for the company under Part A1 of the Insolvency Act 1986 or Part 1A of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), and

(b) the creditors with whom the compromise or arrangement is proposed include any relevant creditors (see subsection (2)).

(2) In this section "relevant creditor" means—

(a) a creditor in respect of a moratorium debt, or

(b) a creditor in respect of a priority pre-moratorium debt.

(3) The relevant creditors may not participate in the meeting summoned under section 896.

(4) For the purposes of section 897 (statement to be circulated or made available)—

(a) the requirement in section 897(1)(a) is to be read as including a requirement to send each relevant creditor a statement complying with section 897;

(b) any reference to creditors entitled to attend the meeting summoned under section 896 includes a reference to relevant creditors.

(5) The court may not sanction the compromise or arrangement under section 899 if it includes provision in respect of any relevant creditor who has not agreed to it.

(6) In this section—

"moratorium debt"—

(a) in the case of a moratorium under Part A1 of the Insolvency Act 1986, has the same meaning as in section 174A of that Act;

(b) in the case of a moratorium under Part 1A of the Insolvency (Northern Ireland) Order 1989, has the same meaning as in Article 148A of that Order;

"priority pre-moratorium debt"—

(a) in the case of a moratorium under Part A1 of the Insolvency Act 1986, has the same meaning as in section 174A of that Act;

(b) in the case of a moratorium under Part 1A of the Insolvency (Northern Ireland) Order 1989, has the same meaning as in Article 148A of that Order.**]**

Reconstructions and amalgamations

900 Powers of court to facilitate reconstruction or amalgamation

(1) This section applies where application is made to the court under section 899 to sanction a compromise or arrangement and it is shown that—

(a) the compromise or arrangement is proposed for the purposes of, or in connection with, a scheme for the reconstruction of any company or companies, or the amalgamation of any two or more companies, and

(b) under the scheme the whole or any part of the undertaking or the property of any company concerned in the scheme ("a transferor company") is to be transferred to another company ("the transferee company").

(2) The court may, either by the order sanctioning the compromise or arrangement or by a subsequent order, make provision for all or any of the following matters—

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(a) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any transferor company;

(b) the allotting or appropriation by the transferee company of any shares, debentures, policies or other like interests in that company which under the compromise or arrangement are to be allotted or appropriated by that company to or for any person;

(c) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company;

(d) the dissolution, without winding up, of any transferor company;

(e) the provision to be made for any persons who, within such time and in such manner as the court directs, dissent from the compromise or arrangement;

(f) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation is fully and effectively carried out.

(3) If an order under this section provides for the transfer of property or liabilities—

(a) the property is by virtue of the order transferred to, and vests in, the transferee company, and

(b) the liabilities are, by virtue of the order, transferred to and become liabilities of that company.

(4) The property (if the order so directs) vests freed from any charge that is by virtue of the compromise or arrangement to cease to have effect.

(5) In this section—

"property" includes property, rights and powers of every description; and

"liabilities" includes duties.

(6) Every company in relation to which an order is made under this section must cause a copy of the order to be delivered to the registrar within seven days after its making.

(7) If default is made in complying with subsection (6) an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

(8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

Modifications etc. (not altering text)

C1233 Ss. 895-900 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 45 (as amended (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 2(3)(a)(b)(c))**

C1236S. 900(6) modified by 2008 c. 17, s. 160(6) (as substituted (6.4.2017) by Housing and Planning Act 2016 (c. 22), s. 216(3), **Sch. 4 para. 24**; S.I. 2017/75, reg. 4)

Status: *Point in time view as at 31/12/2020.*
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Obligations of company with respect to articles etc

901 Obligations of company with respect to articles etc

(1) This section applies—

(a) to any order under section 899 (order sanctioning compromise or arrangement), and

(b) to any order under section 900 (order facilitating reconstruction or amalgamation) that alters the company's constitution.

(2) If the order amends—

(a) the company's articles, or

(b) any resolution or agreement to which Chapter 3 of Part 3 applies (resolution or agreement affecting a company's constitution),

the copy of the order delivered to the registrar by the company under section 899(4) or section 900(6) must be accompanied by a copy of the company's articles, or the resolution or agreement in question, as amended.

(3) Every copy of the company's articles issued by the company after the order is made must be accompanied by a copy of the order, unless the effect of the order has been incorporated into the articles by amendment.

(4) In this section—

(a) references to the effect of the order include the effect of the compromise or arrangement to which the order relates; and

(b) in the case of a company not having articles, references to its articles shall be read as references to the instrument constituting the company or defining its constitution.

(5) If a company makes default in complying with this section an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

[F943PART 26A

ARRANGEMENTS AND RECONSTRUCTIONS: COMPANIES IN FINANCIAL DIFFICULTY

Textual Amendments

F943 Pt. 26A inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 1** (with ss. 2(2), 5(2))

Modifications etc. (not altering text)

C1237 Pt. 26A applied (with modifications) by S.I. 2014/229, art. 2(4), **Sch. 2A** (as inserted (18.7.2020) by The Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) (Amendment) and Consequential Amendments Order 2020 (S.I. 2020/744), arts. 1, **7(c)**, 12)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Application of this Part

901A Application of this Part

(1) The provisions of this Part apply where conditions A and B are met in relation to a company.

(2) Condition A is that the company has encountered, or is likely to encounter, financial difficulties that are affecting, or will or may affect, its ability to carry on business as a going concern.

(3) Condition B is that—

(a) a compromise or arrangement is proposed between the company and—

(i) its creditors, or any class of them, or

(ii) its members, or any class of them, and

(b) the purpose of the compromise or arrangement is to eliminate, reduce or prevent, or mitigate the effect of, any of the financial difficulties mentioned in subsection (2).

(4) In this Part—

"arrangement" includes a reorganisation of the company's share capital by the consolidation of shares of different classes or by the division of shares into shares of different classes, or by both of those methods;

"company"—

(a) in section 901J (powers of court to facilitate reconstruction or amalgamation) means a company within the meaning of this Act, and

(b) elsewhere in this Part means any company liable to be wound up under the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

(5) The provisions of this Part have effect subject to Part 27 (mergers and divisions of public companies) where that Part applies (see sections 902 and 903).

Modifications etc. (not altering text)

C1238 Ss. 901A-901J applied (with modifications) by S.I. 2009/1804, reg. 45A (as inserted) (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 3**)

901B Power to exclude companies providing financial services, etc

(1) The Secretary of State may by regulations provide that this Part does not apply—

(a) where the company in respect of which a compromise or arrangement is proposed is an authorised person, or an authorised person of a specified description;

(b) where—

(i) a compromise or arrangement is proposed between a company, or a company of a specified description, and any creditors of the company, and

(ii) those creditors consist of or include creditors of a specified description.

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(2) In this section—

"authorised person" has the same meaning as in the Financial Services and Markets Act 2000 (see section 31 of that Act);

"specified" means specified in the regulations.

(3) Regulations under this section are subject to affirmative resolution procedure.

Modifications etc. (not altering text)

C1238 Ss. 901A-901J applied (with modifications) by S.I. 2009/1804, reg. 45A (as inserted) (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 3**)

Meeting of creditors or members

901C Court order for holding of meeting

(1) The court may, on an application under this subsection, order a meeting of the creditors or class of creditors, or of the members of the company or class of members (as the case may be), to be summoned in such manner as the court directs.

(2) An application under subsection (1) may be made by—

(a) the company,

(b) any creditor or member of the company,

(c) if the company is being wound up, the liquidator, or

(d) if the company is in administration, the administrator.

(3) Every creditor or member of the company whose rights are affected by the compromise or arrangement must be permitted to participate in a meeting ordered to be summoned under subsection (1).

(4) But subsection (3) does not apply in relation to a class of creditors or members of the company if, on an application under this subsection, the court is satisfied that none of the members of that class has a genuine economic interest in the company.

(5) An application under subsection (4) is to be made by the person who made the application under subsection (1) in respect of the compromise or arrangement.

(6) Section 323 (representation of corporations at meetings) applies to a meeting of creditors under this section as to a meeting of the company (references to a member of the company being read as references to a creditor).

(7) This section is subject to section 901H (moratorium debts, etc).

Modifications etc. (not altering text)

C1238 Ss. 901A-901J applied (with modifications) by S.I. 2009/1804, reg. 45A (as inserted) (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 3**)

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901D Statement to be circulated or made available

(1) Where a meeting is summoned under section 901C—

(a) every notice summoning the meeting that is sent to a creditor or member must be accompanied by a statement complying with this section, and

(b) every notice summoning the meeting that is given by advertisement must either—

(i) include such a statement, or

(ii) state where and how creditors or members entitled to attend the meeting may obtain copies of such a statement.

(2) The statement must—

(a) explain the effect of the compromise or arrangement, and

(b) in particular, state—

(i) any material interests of the directors of the company (whether as directors or as members or as creditors of the company or otherwise), and

(ii) the effect on those interests of the compromise or arrangement, in so far as it is different from the effect on the like interests of other persons.

(3) Where the compromise or arrangement affects the rights of debenture holders of the company, the statement must give the like explanation as respects the trustees of any deed for securing the issue of the debentures as it is required to give as respects the company's directors.

(4) Where a notice given by advertisement states that copies of an explanatory statement can be obtained by creditors or members entitled to attend the meeting, every such creditor or member is entitled, on making application in the manner indicated by the notice, to be provided by the company with a copy of the statement free of charge.

(5) If a company makes default in complying with any requirement of this section, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

This is subject to subsection (7).

(6) For this purpose the following are treated as officers of the company—

(a) a liquidator or administrator of the company, and

(b) a trustee of a deed for securing the issue of debentures of the company.

(7) A person is not guilty of an offence under this section if the person shows that the default was due to the refusal of a director or trustee for debenture holders to supply the necessary particulars of the director's or (as the case may be) the trustee's interests.

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

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

(b) on summary conviction in England and Wales, to a fine;

(c) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.

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Modifications etc. (not altering text)
C1238 Ss. 901A-901J applied (with modifications) by S.I. 2009/1804, reg. 45A (as inserted) (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 3**)

901E Duty of directors and trustees to provide information

(1) It is the duty of—

(a) any director of the company, and

(b) any trustee for its debenture holders,

to give notice to the company of such matters relating to that director or trustee as may be necessary for the purposes of section 901D (explanatory statement to be circulated or made available).

(2) Any person who makes default in complying with this section commits an offence.

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

Modifications etc. (not altering text)
C1238 Ss. 901A-901J applied (with modifications) by S.I. 2009/1804, reg. 45A (as inserted) (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 3**)

Court sanction for compromise or arrangement

901F Court sanction for compromise or arrangement

(1) If a number representing 75% in value of the creditors or class of creditors or members or class of members (as the case may be), present and voting either in person or by proxy at the meeting summoned under section 901C, agree a compromise or arrangement, the court may, on an application under this section, sanction the compromise or arrangement.

(2) Subsection (1) is subject to—

(a) section 901G (sanction for compromise or arrangement where one or more classes dissent), and

(b) section 901H (moratorium debts, etc).

(3) An application under this section may be made by—

(a) the company,

(b) any creditor or member of the company,

(c) if the company is being wound up, the liquidator, or

(d) if the company is in administration, the administrator.

(4) Where the court makes an order under this section in relation to a company that is in administration or is being wound up, the court may by the order—

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(a) provide for the appointment of the administrator or liquidator to cease to have effect;

(b) stay or sist all proceedings in the administration or the winding up;

(c) impose any requirements with respect to the conduct of the administration or the winding up which the court thinks appropriate for facilitating the compromise or arrangement.

(5) A compromise or arrangement sanctioned by the court is binding—

(a) on all creditors or the class of creditors or on the members or class of members (as the case may be), and

(b) on the company or, in the case of a company in the course of being wound up, the liquidator and contributories of the company.

(6) The court's order has no effect until a copy of it has been—

(a) in the case of an overseas company that is not required to register particulars under section 1046, published in the Gazette, or

(b) in any other case, delivered to the registrar.

Modifications etc. (not altering text)

C1238 Ss. 901A-901J applied (with modifications) by S.I. 2009/1804, reg. 45A (as inserted) (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 3**)

901G Sanction for compromise or arrangement where one or more classes dissent

(1) This section applies if the compromise or arrangement is not agreed by a number representing at least 75% in value of a class of creditors or (as the case may be) of members of the company ("the dissenting class"), present and voting either in person or by proxy at the meeting summoned under section 901C.

(2) If conditions A and B are met, the fact that the dissenting class has not agreed the compromise or arrangement does not prevent the court from sanctioning it under section 901F.

(3) Condition A is that the court is satisfied that, if the compromise or arrangement were to be sanctioned under section 901F, none of the members of the dissenting class would be any worse off than they would be in the event of the relevant alternative (see subsection (4)).

(4) For the purposes of this section "the relevant alternative" is whatever the court considers would be most likely to occur in relation to the company if the compromise or arrangement were not sanctioned under section 901F.

(5) Condition B is that the compromise or arrangement has been agreed by a number representing 75% in value of a class of creditors or (as the case may be) of members, present and voting either in person or by proxy at the meeting summoned under section 901C, who would receive a payment, or have a genuine economic interest in the company, in the event of the relevant alternative.

(6) The Secretary of State may by regulations amend this section for the purpose of—

(a) adding to the conditions that must be met for the purposes of this section;

(b) removing or varying any of those conditions.

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(7) Regulations under subsection (6) are subject to affirmative resolution procedure.

Modifications etc. (not altering text)

C1238 Ss. 901A-901J applied (with modifications) by S.I. 2009/1804, reg. 45A (as inserted) (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 3**)

Special cases

901H Moratorium debts, etc

(1) This section applies where—

(a) an application under section 901C(1) in respect of a compromise or arrangement is made before the end of the period of 12 weeks beginning with the day after the end of any moratorium for the company under Part A1 of the Insolvency Act 1986 or Part 1A of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), and

(b) the creditors with whom the compromise or arrangement is proposed include any relevant creditors (see subsection (2)).

(2) In this section "relevant creditor" means—

(a) a creditor in respect of a moratorium debt, or

(b) a creditor in respect of a priority pre-moratorium debt.

(3) The relevant creditors may not participate in the meeting summoned under section 901C.

(4) For the purposes of section 901D (statement to be circulated or made available)—

(a) the requirement in section 901D(1)(a) is to be read as including a requirement to send each relevant creditor a statement complying with section 901D;

(b) any reference to creditors entitled to attend the meeting summoned under section 901C includes a reference to relevant creditors.

(5) The court may not sanction the compromise or arrangement under section 901F if it includes provision in respect of any relevant creditor who has not agreed to it.

(6) In this section—

"moratorium debt"—

(a) in the case of a moratorium under Part A1 of the Insolvency Act 1986, has the same meaning as in section 174A of that Act;

(b) in the case of a moratorium under Part 1A of the Insolvency (Northern Ireland) Order 1989, has the same meaning as in Article 148A of that Order;

"priority pre-moratorium debt"—

(a) in the case of a moratorium under Part A1 of the Insolvency Act 1986, has the same meaning as in section 174A of that Act;

(b) in the case of a moratorium under Part 1A of the Insolvency (Northern Ireland) Order 1989, has the same meaning as in Article 148A of that Order.

Status: *Point in time view as at 31/12/2020.*
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Modifications etc. (not altering text)

C1238 Ss. 901A-901J applied (with modifications) by S.I. 2009/1804, reg. 45A (as inserted) (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 3**)

901I Pension schemes

(1) In a case where the company in respect of which a compromise or arrangement is proposed is or has been an employer in respect of an occupational pension scheme that is not a money purchase scheme, any notice or other document required to be sent to a creditor of the company must also be sent to the Pensions Regulator.

(2) In a case where the company in respect of which a compromise or arrangement is proposed is an employer in respect of an eligible scheme, any notice or other document required to be sent to a creditor of the company must also be sent to the Board of the Pension Protection Fund ("the Board").

(3) The Secretary of State may by regulations provide that, in a case where—

(a) the company in respect of which a compromise or arrangement is proposed is an employer in respect of an eligible scheme, and

(b) the trustees or managers of the scheme are a creditor of the company,

the Board may exercise any rights, or any rights of a specified description, that are exercisable under this Part by the trustees or managers as a creditor of the company.

(4) Regulations under this section may provide that the Board may exercise any such rights—

(a) to the exclusion of the trustees or managers of the scheme, or

(b) in addition to the exercise of those rights by the trustees or managers of the scheme.

(5) Regulations under this section—

(a) may specify conditions that must be met before the Board may exercise any such rights;

(b) may provide for any such rights to be exercisable by the Board for a specified period;

(c) may make provision in connection with any such rights ceasing to be so exercisable at the end of such a period.

(6) Regulations under this section are subject to affirmative resolution procedure (but see subsection (7)).

(7) During the period of six months beginning with the day on which this section comes into force, regulations under this section are subject to approval after being made (and subsection (6) does not apply).

(8) For the purposes of subsection (7), section 1291 has effect as if any reference in that section to a period of 28 days were to a period of 40 days.

(9) In this section—

"eligible scheme" means any pension scheme that is an eligible scheme for the purposes of section 126 of the Pensions Act 2004 or Article 110 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1));

Status: *Point in time view as at 31/12/2020.*
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"employer"—

(a) in subsection (1), means an employer within the meaning of section 318(1) of the Pensions Act 2004 or Article 2(2) of the Pensions (Northern Ireland) Order 2005;

(b) in subsections (2) and (3)—

(i) in the case of a pension scheme that is an eligible scheme for the purposes of section 126 of the Pensions Act 2004, has the same meaning as it has for the purposes of Part 2 of that Act (see section 318(1) and (4) of that Act);

(ii) in the case of a pension scheme that is an eligible scheme for the purposes of Article 110 of the Pensions (Northern Ireland) Order 2005, has the same meaning as it has for the purposes of Part 3 of that Order (see Article 2(2) and (5) of that Order);

"money purchase scheme" means a pension scheme that is a money purchase scheme for the purposes of the Pension Schemes Act 1993 (see section 181(1) of that Act) or the Pension Schemes (Northern Ireland) Act 1993 (see section 176(1) of that Act);

"occupational pension scheme" and "pension scheme" have the meaning given by section 1 of the Pension Schemes Act 1993;

"specified" means specified in regulations under this section.

Modifications etc. (not altering text)

C1238 Ss. 901A-901J applied (with modifications) by S.I. 2009/1804, reg. 45A (as inserted) (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 3**)

Reconstructions and amalgamations

901J Powers of court to facilitate reconstruction or amalgamation

(1) This section applies where application is made to the court under section 901F to sanction a compromise or arrangement and it is shown that—

(a) the compromise or arrangement is proposed in connection with a scheme for the reconstruction of any company or companies, or the amalgamation of any two or more companies, and

(b) under the scheme the whole or any part of the undertaking or the property of any company concerned in the scheme (a "transferor company") is to be transferred to another company ("the transferee company").

(2) The court may, either by the order sanctioning the compromise or arrangement or by a subsequent order, make provision for all or any of the following matters—

(a) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any transferor company;

(b) the allotting or appropriation by the transferee company of any shares, debentures, policies or other like interests in that company which under the compromise or arrangement are to be allotted or appropriated by that company to or for any person;

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(c) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company;

(d) the dissolution, without winding up, of any transferor company;

(e) the provision to be made for any persons who, within such time and in such manner as the court directs, dissent from the compromise or arrangement;

(f) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation is fully and effectively carried out.

(3) If an order under this section provides for the transfer of property or liabilities—

(a) the property is by virtue of the order transferred to, and vests in, the transferee company, and

(b) the liabilities are, by virtue of the order, transferred to and become liabilities of that company.

(4) The property (if the order so directs) vests freed from any charge that is by virtue of the compromise or arrangement to cease to have effect.

(5) In this section—

"property" includes property, rights and powers of every description; and

"liabilities" includes duties.

(6) Every company in relation to which an order is made under this section must cause a copy of the order to be delivered to the registrar within seven days after its making.

(7) If default is made in complying with subsection (6) an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

(8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

Modifications etc. (not altering text)

C1238 Ss. 901A-901J applied (with modifications) by S.I. 2009/1804, reg. 45A (as inserted) (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 3**)

Obligations of company with respect to articles etc

901K Obligations of company with respect to articles etc

(1) This section applies—

(a) to any order under section 901F (order sanctioning compromise or arrangement), and

(b) to any order under section 901J (order facilitating reconstruction or amalgamation) that alters the company's constitution.

(2) If—

(a) the order amends—

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(i) the company's articles, or

(ii) any resolution or agreement to which Chapter 3 of Part 3 applies (resolution or agreement affecting a company's constitution), and

(b) a copy of the order is required to be delivered to the registrar by the company under section 901F(6)(b) or section 901J(6),

the copy of the order delivered to the registrar must be accompanied by a copy of the company's articles, or the resolution or agreement in question, as amended.

(3) Every copy of the company's articles issued by the company after the order is made must be accompanied by a copy of the order, unless the effect of the order has been incorporated into the articles by amendment.

(4) In this section—

(a) references to the effect of the order include the effect of the compromise or arrangement to which the order relates, and

(b) in the case of a company not having articles, references to its articles are to be read as references to the instrument constituting the company or defining its constitution.

(5) If a company makes default in complying with this section an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

Power to amend Act

901L Power to amend Act

(1) The Secretary of State may by regulations make any amendment of this Act which the Secretary of State considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to this Part.

(2) Regulations under this section are subject to affirmative resolution procedure.**]**

PART 27

MERGERS AND DIVISIONS OF PUBLIC COMPANIES

Modifications etc. (not altering text)

C1239 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

C1240 Pt. 27 applied (6.4.2008) by S.I. 2001/1228, Sch. 6 paras. 5, 6 (as amended by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 223(4)** (with arts. 6, 11, 12))

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C1241 Pt. 27 applied (6.4.2008) by 2000 c. 8, s. 105(5) (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 211(1)** (with arts. 6, 11, 12))

CHAPTER 1

INTRODUCTORY

902 Application of this Part

(1) This Part applies where—

(a) a compromise or arrangement is proposed between a public company and—

(i) its creditors or any class of them, or

(ii) its members or any class of them,

for the purposes of, or in connection with, a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies,

(b) the scheme involves—

(i) a merger (as defined in section 904), or

(ii) a division (as defined in section 919), and

(c) the consideration for the transfer (or each of the transfers) envisaged is to be shares in the transferee company (or one or more of the transferee companies) receivable by members of the transferor company (or transferor companies), with or without any cash payment to members.

(2) In this Part—

(a) a "new company" means a company formed for the purposes of, or in connection with, the scheme, and

(b) an "existing company" means a company other than one formed for the purposes of, or in connection with, the scheme.

(3) This Part does not apply where the company in respect of which the compromise or arrangement is proposed is being wound up.

903 Relationship of this Part to [F944Parts 26 and 26A]

(1) The court must not sanction the compromise or arrangement under **[**F945Part 26 (arrangements and reconstructions: general) or Part 26A (arrangements and reconstructions: companies in financial difficulty)**]** unless the relevant requirements of this Part have been complied with.

(2) The requirements applicable to a merger are specified in sections 905 to 914.

Certain of those requirements, and certain general requirements of **[**F946Parts 26 and 26A**]**, are modified or excluded by the provisions of sections 915 to **[**F947918A**]**.

(3) The requirements applicable to a division are specified in sections 920 to 930.

Certain of those requirements, and certain general requirements of **[**F948Parts 26 and 26A**]**, are modified or excluded by the provisions of sections 931 to 934.

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Textual Amendments

F944 Words in s. 903 heading substituted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(2)(a)** (with ss. 2(2), 5(2))

F945 Words in s. 903(1) substituted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(2)(b)** (with ss. 2(2), 5(2))

F946 Words in s. 903(2) substituted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(2)(c)** (with ss. 2(2), 5(2))

F947 Words in s. 903(2) substituted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 4**

F948 Words in s. 903(3) substituted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(2)(c)** (with ss. 2(2), 5(2))

CHAPTER 2

MERGER

Introductory

904 Mergers and merging companies

(1) The scheme involves a merger where under the scheme—

(a) the undertaking, property and liabilities of one or more public companies, including the company in respect of which the compromise or arrangement is proposed, are to be transferred to another existing public company (a "merger by absorption"), or

(b) the undertaking, property and liabilities of two or more public companies, including the company in respect of which the compromise or arrangement is proposed, are to be transferred to a new company, whether or not a public company, (a "merger by formation of a new company").

(2) References in this Part to "the merging companies" are—

(a) in relation to a merger by absorption, to the transferor and transferee companies;

(b) in relation to a merger by formation of a new company, to the transferor companies.

Requirements applicable to merger

905 Draft terms of scheme (merger)

(1) A draft of the proposed terms of the scheme must be drawn up and adopted by the directors of the merging companies.

(2) The draft terms must give particulars of at least the following matters—

(a) in respect of each transferor company and the transferee company—

(i) its name,

(ii) the address of its registered office, and

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(iii) whether it is a company limited by shares or a company limited by guarantee and having a share capital;

(b) the number of shares in the transferee company to be allotted to members of a transferor company for a given number of their shares (the "share exchange ratio") and the amount of any cash payment;

(c) the terms relating to the allotment of shares in the transferee company;

(d) the date from which the holding of shares in the transferee company will entitle the holders to participate in profits, and any special conditions affecting that entitlement;

(e) the date from which the transactions of a transferor company are to be treated for accounting purposes as being those of the transferee company;

(f) any rights or restrictions attaching to shares or other securities in the transferee company to be allotted under the scheme to the holders of shares or other securities in a transferor company to which any special rights or restrictions attach, or the measures proposed concerning them;

(g) any amount of benefit paid or given or intended to be paid or given—

(i) to any of the experts referred to in section 909 (expert's report), or

(ii) to any director of a merging company,

and the consideration for the payment of benefit.

(3) The requirements in subsection (2)(b), (c) and (d) are subject to section 915 (circumstances in which certain particulars not required).

906 Publication of draft terms [F949by registrar](merger)

(1) The directors of each of the merging companies must deliver a copy of the draft terms to the registrar.

(2) The registrar must publish in the Gazette notice of receipt by him from that company of a copy of the draft terms.

(3) That notice must be published at least one month before the date of any meeting of that company summoned for the purpose of approving the scheme.

[F950(4) The requirements in this section are subject to section 906A (publication of draft terms on company website).**]**

Textual Amendments

F949 S. 906: words in heading inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 5(2)**

F950 S. 906(4) inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 5(1)**

[F951906A Publication of draft terms on company website (merger)

(1) Section 906 does not apply in respect of a company if the conditions in subsections (2) to (6) are met.

(2) The first condition is that the draft terms are made available on a website which—

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(a) is maintained by or on behalf of the company, and

(b) identifies the company.

(3) The second condition is that neither access to the draft terms on the website nor the supply of a hard copy of them from the website is conditional on payment of a fee or otherwise restricted.

(4) The third condition is that the directors of the company deliver to the registrar a notice giving details of the website.

(5) The fourth condition is that the registrar publishes the notice in the Gazette at least one month before the date of any meeting of the company summoned for the purpose of approving the scheme.

(6) The fifth condition is that the draft terms remain available on the website throughout the period beginning one month before, and ending on, the date of any such meeting.**]**

Textual Amendments

F951 S. 906A inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 6**

907 Approval of members of merging companies

(1) The scheme must be approved by a majority in number, representing 75% in value, of each class of members of each of the merging companies, present and voting either in person or by proxy at a meeting.

(2) This requirement is subject to sections 916, 917**[**F952, 917A**]** and 918 (circumstances in which meetings of members not required).

Textual Amendments

F952 Word in s. 907(2) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(3)** (with ss. 2(2), 5(2))

Modifications etc. (not altering text)

C1242 S. 907 applied (31.12.2020) by Regulation (EC) No. 2157/2001, Art. 66(6) (as amended by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **135(f)(ii)** (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), **5(a)-(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

908 Directors' explanatory report (merger)

(1) The directors of each of the merging companies must draw up and adopt a report.

(2) The report must consist of—

(a) **[**F953the required statement explaining the effect of the compromise or arrangement,**]** and

(b) insofar as that statement does not deal with the following matters, a further statement—

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(i) setting out the legal and economic grounds for the draft terms, and in particular for the share exchange ratio, and

(ii) specifying any special valuation difficulties.

[F954(2A) In subsection (2) "the required statement explaining the effect of the compromise or arrangement" means—

(a) in a case where a meeting is summoned under section 896 in relation to the compromise or arrangement, the statement required by section 897;

(b) in a case where a meeting is summoned under section 901C in relation to the compromise or arrangement, the statement required by section 901D.**]**

(3) The requirement in this section is subject to section 915 (circumstances in which reports not required) **[**F955, section 915A (other circumstances in which reports and inspection not required) and section 918A (agreement to dispense with reports etc).**]**.

Textual Amendments

F953 Words in s. 908(2) substituted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(4)(a)** (with ss. 2(2), 5(2))

F954 S. 908(2A) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(4)(b)** (with ss. 2(2), 5(2))

F955 Words in s. 908(3) added (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 7**

909 Expert's report (merger)

(1) An expert's report must be drawn up on behalf of each of the merging companies.

(2) The report required is a written report on the draft terms to the members of the company.

(3) The court may on the joint application of all the merging companies approve the appointment of a joint expert to draw up a single report on behalf of all those companies.

If no such appointment is made, there must be a separate expert's report to the members of each merging company drawn up by a separate expert appointed on behalf of that company.

(4) The expert must be a person who—

(a) is eligible for appointment as a statutory auditor (see section 1212), and

(b) meets the independence requirement in section 936.

(5) The expert's report must—

(a) indicate the method or methods used to arrive at the share exchange ratio;

(b) give an opinion as to whether the method or methods used are reasonable in all the circumstances of the case, indicate the values arrived at using each such method and (if there is more than one method) give an opinion on the relative importance attributed to such methods in arriving at the value decided on;

(c) describe any special valuation difficulties that have arisen;

(d) state whether in the expert's opinion the share exchange ratio is reasonable; and

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(e) in the case of a valuation made by a person other than himself (see section 935), state that it appeared to him reasonable to arrange for it to be so made or to accept a valuation so made.

(6) The expert (or each of them) has—

(a) the right of access to all such documents of all the merging companies, and

(b) the right to require from the companies' officers all such information,

as he thinks necessary for the purposes of making his report.

(7) The requirement in this section is subject to section 915 (circumstances in which reports not required) **[**F956, section 915A (other circumstances in which reports and inspection not required)**][**F957and section 918A (agreement to dispense with expert's report)**]** .

Textual Amendments

F956 Words in s. 909(7) inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 8**

F957 Words in s. 909(7) inserted (6.4.2008) by The Companies (Mergers and Divisions of Public Companies) (Amendment) Regulations 2008 (S.I. 2008/690), **reg. 2(1)**

Modifications etc. (not altering text)

C1243 S. 909 applied (31.12.2020) by Regulation (EC) No. 2157/2001, Art. 66(5) (as amended by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **135(e)** (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), **5(a)-(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

910 Supplementary accounting statement (merger)

[F958(1) This section applies if the last annual accounts of any of the merging companies relate to a financial year ending before—

(a) the date seven months before the first meeting of the company summoned for the purposes of approving the scheme, or

(b) if no meeting of the company is required (by virtue of any of sections 916 to 918), the date six months before the directors of the company adopt the draft terms of the scheme.

(1A) If the company has not made public a half-yearly financial report relating to a period ending on or after the date mentioned in subsection (1), the directors of the company must prepare a supplementary accounting statement.**]**

(2) That statement must consist of—

(a) a balance sheet dealing with the state of affairs of the company as at a date not more than three months before the draft terms were adopted by the directors, and

(b) where the company would be required under section 399 to prepare group accounts if that date were the last day of a financial year, a consolidated balance sheet dealing with the state of affairs of the company and the undertakings that would be included in such a consolidation.

(3) The requirements of this Act F959... as to the balance sheet forming part of a company's annual accounts, and the matters to be included in notes to it, apply to the balance

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sheet required for an accounting statement under this section, with such modifications as are necessary by reason of its being prepared otherwise than as at the last day of a financial year.

(4) The provisions of section 414 as to the approval and signing of accounts apply to the balance sheet required for an accounting statement under this section.

[F960(5) In this section " half-yearly financial report " means a report of that description required to be made public by rules under section 89A of the Financial Services and Markets Act 2000 F961 (transparency rules).

(6) The requirement in this section is subject to section 915A (other circumstances in which reports and inspection not required) and section 918A (agreement to dispense with reports etc). **]**

Textual Amendments

F958 S. 910(1)(1A) substituted (1.8.2011 with application in accordance with reg. 1(2)) for s. 190(1) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 9(2)**

F959 Words in s. 910(3) omitted (31.12.2020) by virtue of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 1 para. 24** (with reg. 1(3)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F960 S. 910(5)(6) added (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), {reg. 9(3}

F961 2000 c.8. Section 89A was inserted by section 1266 of the Companies Act 2006.

911 Inspection of documents (merger)

(1) The members of each of the merging companies must be able, during the period specified below—

(a) to inspect at the registered office of that company copies of the documents listed below relating to that company and every other merging company, and

(b) to obtain copies of those documents or any part of them on request free of charge.

(2) The period referred to above is the period—

(a) beginning one month before, and

(b) ending on the date of,

the first meeting of the members, or any class of members, of the company for the purposes of approving the scheme.

(3) The documents referred to above are—

(a) the draft terms;

(b) the directors' explanatory report;

(c) the expert's report;

(d) the company's annual accounts and reports for the last three financial years ending on or before the first meeting of the members, or any class of members, of the company summoned for the purposes of approving the scheme; F962. . .

(e) any supplementary accounting statement required by section 910.**[**F963; and

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(f) if no statement is required by section 910 because the company has made public a recent half-yearly financial report (see subsection (1A) of that section), that report. **]**

[F964(3A) The requirement in subsection (1)(a) is subject to section 911A(1) (publication of documents on company website).**]**

(4) The requirements of subsection (3)(b) and (c) are subject to section 915 (circumstances in which reports not required)**[**F965 and section 918A (agreement to dispense with reports etc)**]**.

[F966(5) Section 1145 (right to hard copy) does not apply to a document sent or supplied in accordance with subsection (1)(b) to a member who has consented to information being sent or supplied by the company by electronic means and has not revoked that consent.

(6) Part 4 of Schedule 5 (communications by means of a website) does not apply for the purposes of subsection (1)(b) (but see section 911A(5)).

(7) The requirements in this section are subject to section 915A (other circumstances in which reports and inspection not required).**]**

Textual Amendments

F962 Word in s. 911(3)(d) omitted (1.8.2011 with application in accordance with reg. 1(2)) by virtue of The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 10(2)**

F963 S. 911(3)(f) and preceding word inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 10(2)**

F964 S. 911(3A) inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 10(3)**

F965 Words in s. 911(4) inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 10(4)**

F966 S. 911(5)(6)(7) inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 10(5)**

[F967**911A Publication of documents on company website (merger)**

(1) Section 911(1)(a) does not apply to a document if the conditions in subsections (2) to (4) are met in relation to that document. This is subject to subsection (6).

(2) The first condition is that the document is made available on a website which—

(a) is maintained by or on behalf of the company, and

(b) identifies the company.

(3) The second condition is that access to the document on the website is not conditional on payment of a fee or otherwise restricted.

(4) The third condition is that the document remains available on the website throughout the period beginning one month before, and ending on, the date of any meeting of the company summoned for the purpose of approving the scheme.

(5) A person is able to obtain a copy of a document as required by section 911(1)(b) if—

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the conditions in subsections (2) and (3) are met in relation to that document, and

(b) the person is able, throughout the period specified in subsection (4)—

(i) to retain a copy of the document as made available on the website, and

(ii) to produce a hard copy of it.

(6) Where members of a company are able to obtain copies of a document only as mentioned in subsection (5), section 911(1)(a) applies to that document even if the conditions in subsections (2) to (4) are met.**]**

Textual Amendments

F967 S. 911A inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 11**

[F968911BReport on material changes of assets of merging companies

(1) The directors of each of the merging companies must report—

(a) to every meeting of the members, or any class of members, of that company summoned for the purpose of agreeing to the scheme, and

(b) to the directors of every other merging company,

any material changes in the property and liabilities of that company between the date when the draft terms were adopted and the date of the meeting in question.

(2) The directors of each of the other merging companies must in turn—

(a) report those matters to every meeting of the members, or any class of members, of that company summoned for the purpose of agreeing to the scheme, or

(b) send a report of those matters to every member entitled to receive notice of such a meeting.

(3) The requirement in this section is subject to section 915A (other circumstances in which reports and inspection not required) and section 918A (agreement to dispense with reports etc). **]**

Textual Amendments

F968 S. 911B inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 12**

912 Approval of articles of new transferee company (merger)

[F969(1)**]** In the case of a merger by formation of a new company, the articles of the transferee company, or a draft of them, must be approved by ordinary resolution of F970. . . each of the transferor companies. **[**F971This is subject to subsection (2).**]**

[F972(2) In the case of a compromise or arrangement to be sanctioned under Part 26A, it is not necessary for the articles of the transferee company (or a draft of them) to be approved by ordinary resolution of the company in respect of which the compromise or arrangement is proposed. **]**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F969 S. 912 renumbered as s. 912(1) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(5)(a)** (with ss. 2(2), 5(2))

F970 Words in s. 912 omitted (1.8.2011 with application in accordance with reg. 1(2)) by virtue of The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 13**

F971 Words in s. 912(1) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(5)(b)** (with ss. 2(2), 5(2))

F972 S. 912(2) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(5)(c)** (with ss. 2(2), 5(2))

913 Protection of holders of securities to which special rights attached (merger)

(1) The scheme must provide that where any securities of a transferor company (other than shares) to which special rights are attached are held by a person otherwise than as a member or creditor of the company, that person is to receive rights in the transferee company of equivalent value.

(2) Subsection (1) does not apply if—

(a) the holder has agreed otherwise, or

(b) the holder is, or under the scheme is to be, entitled to have the securities purchased by the transferee company on terms that the court considers reasonable.

[F973914 No allotment of shares to transferor company or its nominee (merger)

The scheme must not provide for any shares in the transferee company to be allotted to—

(a) a transferor company (or its nominee) in respect of shares in the transferor company held by the transferor company itself (or its nominee); or

(b) the transferee company (or its nominee) in respect of shares in a transferor company held by the transferee company (or its nominee).**]**

Textual Amendments

F973 S. 914 substituted (6.4.2008) by The Companies (Mergers and Divisions of Public Companies) (Amendment) Regulations 2008 (S.I. 2008/690), **reg. 3**

Exceptions where shares of transferor company held by transferee company

915 Circumstances in which certain particulars and reports not required (merger)

(1) This section applies in the case of a merger by absorption where all of the relevant securities of the transferor company (or, if there is more than one transferor company, of each of them) are held by or on behalf of the transferee company.

(2) The draft terms of the scheme need not give the particulars mentioned in section 905(2)(b), (c) or (d) (particulars relating to allotment of shares to members of transferor company).

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(3) **[**F974In a case where a meeting has been summoned under section 896 in relation to the compromise or arrangement, section 897**]** (explanatory statement to be circulated or made available) does not apply.

[F975(3A) In a case where a meeting has been summoned under section 901C in relation to the compromise or arrangement, section 901D (explanatory statement to be circulated or made available) does not apply.**]**

(4) The requirements of the following sections do not apply—

section 908 (directors' explanatory report),

section 909 (expert's report).

(5) The requirements of section 911 (inspection of documents) so far as relating to any document required to be drawn up under the provisions mentioned in **[**F976subsection (4)**]** above do not apply.

(6) In this section "relevant securities", in relation to a company, means shares or other securities carrying the right to vote at general meetings of the company.

Textual Amendments

F974 Words in s. 915(3) substituted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(6)(a)** (with ss. 2(2), 5(2))

F975 S. 915(3A) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(6)(b)** (with ss. 2(2), 5(2))

F976 Word in s. 915(5) substituted (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), **art. 28(4)**

[F977915A Other circumstances in which reports and inspection not required (merger)

(1) This section applies in the case of a merger by absorption where 90% or more (but not all) of the relevant securities of the transferor company (or, if there is more than one transferor company, of each of them) are held by or on behalf of the transferee company.

(2) If the conditions in subsections (3) and (4) are met, the requirements of the following sections do not apply—

(a) section 908 (directors' explanatory report),

(b) section 909 (expert's report),

(c) section 910 (supplementary accounting statement),

(d) section 911 (inspection of documents), and

(e) section 911B (report on material changes of assets of merging company).

(3) The first condition is that the scheme provides that every other holder of relevant securities has the right to require the transferee company to acquire those securities.

(4) The second condition is that, if a holder of securities exercises that right, the consideration to be given for those securities is fair and reasonable.

(5) The powers of the court under section 900(2) **[**F978or, as the case may be, section 901J(2)**]** (power to facilitate reconstruction or amalgamation) include the power to determine, or make provision for the determination of, the consideration to be given for securities acquired under this section.

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(6) In this section—

" other holder " means a person who holds securities of the transferor company otherwise than on behalf of the transferee company (and does not include the transferee company itself);

" relevant securities ", in relation to a company, means shares or other securities carrying the right to vote at general meetings of the company. **]**

Textual Amendments

F977 S. 915A inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 14**

F978 Words in s. 915A(5) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(7)** (with ss. 2(2), 5(2))

916 Circumstances in which meeting of members of transferee company not required (merger)

(1) This section applies in the case of a merger by absorption where 90% or more (but not all) of the relevant securities of the transferor company (or, if there is more than one transferor company, of each of them) are held by or on behalf of the transferee company.

(2) It is not necessary for the scheme to be approved at a meeting of the members, or any class of members, of the transferee company if the court is satisfied that the following conditions have been complied with.

[F979(3) The first condition is that either subsection (3A) or subsection (3B) is satisfied.

(3A) This subsection is satisfied if publication of notice of receipt of the draft terms by the registrar took place in respect of the transferee company at least one month before the date of the first meeting of members, or any class of members, of the transferor company summoned for the purpose of agreeing to the scheme.

(3B) This subsection is satisfied if—

(a) the conditions in section 906A(2) to (4) are met in respect of the transferee company,

(b) the registrar published the notice mentioned in subsection (4) of that section in the Gazette at least one month before the date of the first meeting of members, or any class of members, of the transferor company summoned for the purpose of agreeing to the scheme, and

(c) the draft terms remained available on the website throughout the period beginning one month before, and ending on, that date.**]**

[F980(4) The second condition is that subsection (4A) or (4B) is satisfied for each of the documents listed in the applicable paragraphs of section 911(3)(a) to (f) relating to the transferee company and the transferor company (or, if there is more than one transferor company, each of them).

(4A) This subsection is satisfied for a document if the members of the transferee company were able during the period beginning one month before, and ending on, the date mentioned in subsection (3A) to inspect that document at the registered office of that company.

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(4B) This subsection is satisfied for a document if—

(a) the document is made available on a website which is maintained by or on behalf of the transferee company and identifies the company,

(b) access to the document on the website is not conditional on the payment of a fee or otherwise restricted, and

(c) the document remains available on the website throughout the period beginning one month before, and ending on, the date mentioned in subsection (3A).

(4C) The third condition is that the members of the transferee company were able to obtain copies of the documents mentioned in subsection (4), or any part of those documents, on request and free of charge, throughout the period beginning one month before, and ending on, the date mentioned in subsection (3A).

(4D) For the purposes of subsection (4C)—

(a) section 911A(5) applies as it applies for the purposes of section 911(1)(b), and

(b) Part 4 of Schedule 5 (communications by means of a website) does not apply.**]**

(5) The **[**[F981]fourth**]** condition is that—

(a) one or more members of the transferee company, who together held not less than 5% of the paid-up capital of the company which carried the right to vote at general meetings of the company (excluding any shares in the company held as treasury shares) would have been able, during that period, to require a meeting of each class of members to be called for the purpose of deciding whether or not to agree to the scheme, and

(b) no such requirement was made.

(6) In this section "relevant securities", in relation to a company, means shares or other securities carrying the right to vote at general meetings of the company.

Textual Amendments

F979 S. 916(3)(3A)(3B) substituted (1.8.2011 with application in accordance with reg. 1(2)) for s. 916(3) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 15(2)**

F980 S. 916(4A)-(4D) substituted (1.8.2011 with application in accordance with reg. 1(2)) for s. 916(4) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 15(3)**

F981 Word in s. 916(5) substituted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 15(4)**

917 Circumstances in which no meetings required (merger)

(1) This section applies in the case of a merger by absorption where all of the relevant securities of the transferor company (or, if there is more than one transferor company, of each of them) are held by or on behalf of the transferee company.

(2) It is not necessary for the scheme to be approved at a meeting of the members, or any class of members, of any of the merging companies if the court is satisfied that the following conditions have been complied with.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

[F982(3) The first condition is that either subsection (3A) or subsection (3B) is satisfied.

(3A) This subsection is satisfied if publication of notice of receipt of the draft terms by the registrar took place in respect of all the merging companies at least one month before the date of the court's order.

(3B) This subsection is satisfied if—

(a) the conditions in section 906A(2) to (4) are met in respect of each of the merging companies,

(b) in each case, the registrar published the notice mentioned in subsection (4) of that section in the Gazette at least one month before the date of the court's order, and

(c) the draft terms remained available on the website throughout the period beginning one month before, and ending on, that date.**]**

[F983(4) The second condition is that subsection (4A) or (4B) is satisfied for each of the documents listed in the applicable paragraphs of section 911(3)(a) to (f) relating to the transferee company and the transferor company (or, if there is more than one transferor company, each of them).

(4A) This subsection is satisfied for a document if the members of the transferee company were able during the period beginning one month before, and ending on, the date mentioned in subsection (3A) to inspect that document at the registered office of that company.

(4B) This subsection is satisfied for a document if—

(a) the document is made available on a website which is maintained by or on behalf of the transferee company and identifies the company,

(b) access to the document on the website is not conditional on the payment of a fee or otherwise restricted, and

(c) the document remains available on the website throughout the period beginning one month before, and ending on, the date mentioned in subsection (3A).

(4C) The third condition is that the members of the transferee company were able to obtain copies of the documents mentioned in subsection (4), or any part of those documents, on request and free of charge, throughout the period beginning one month before, and ending on, the date mentioned in subsection (3A).

(4D) For the purposes of subsection (4C)—

(a) section 911A(5) applies as it applies for the purposes of section 911(1)(b), and

(b) Part 4 of Schedule 5 (communications by means of a website) does not apply.**]**

(5) The **[**F984fourth**]** condition is that—

(a) one or more members of the transferee company, who together held not less than 5% of the paid-up capital of the company which carried the right to vote at general meetings of the company (excluding any shares in the company held as treasury shares) would have been able, during that period, to require a meeting of each class of members to be called for the purpose of deciding whether or not to agree to the scheme, and

(b) no such requirement was made.

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(6) In this section "relevant securities", in relation to a company, means shares or other securities carrying the right to vote at general meetings of the company.

Textual Amendments

F982 S. 917(3)-(3B) substituted (1.8.2011 with application in accordance with reg. 1(2)) for s. 917(3) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 16(2)**

F983 S. 917(4)-(4D) substituted (1.8.2011 with application in accordance with reg. 1(2)) for s. 917(4) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 16(3)**

F984 Word in s. 917(5) substituted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 16(4)**

Other exceptions

[F985 917A Other circumstances in which meeting of members of transferor company not required (merger)

In the case of a compromise or arrangement to be sanctioned under Part 26A, it is not necessary for the scheme to be approved by the members of the company in respect of which the compromise or arrangement is proposed.]

Textual Amendments

F985 S. 917A inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(8)** (with ss. 2(2), 5(2))

918 Other circumstances in which meeting of members of transferee company not required (merger)

(1) In the case of any merger by absorption, it is not necessary for the scheme to be approved by the members of the transferee company if the court is satisfied that the following conditions have been complied with.

[F986 (2) The first condition is that either subsection (2A) or subsection (2B) is satisfied.

(2A) This subsection is satisfied if publication of notice of receipt of the draft terms by the registrar took place in respect of the transferee company at least one month before the date of the first meeting of members, or any class of members, of the transferor company (or, if there is more than one transferor company, any of them) summoned for the purposes of agreeing to the scheme.

(2B) This subsection is satisfied if—

(a) the conditions in section 906A(2) to (4) are met in respect of the transferee company,

(b) the registrar published the notice mentioned in subsection (4) of that section in the Gazette at least one month before the date of the first meeting of members, or any class of members, of the transferor company (or, if there is more than

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one transferor company, any of them) summoned for the purposes of agreeing to the scheme, and

(c) the draft terms remained available on the website throughout the period beginning one month before, and ending on, that date.**]**

[F987(3) The second condition is that subsection (3A) or (3B) is satisfied for each of the documents listed in the applicable paragraphs of section 911(3) relating to the transferee company and the transferor company (or, if there is more than one transferor company, each of them).

(3A) This subsection is satisfied for a document if the members of the transferee company were able during the period beginning one month before, and ending on, the date of any such meeting as is mentioned in subsection (2A) to inspect that document at the registered office of that company.

(3B) This subsection is satisfied for a document if—

(a) the document is made available on a website which is maintained by or on behalf of the transferee company and identifies the company,

(b) access to the document on the website is not conditional on the payment of a fee or otherwise restricted, and

(c) the document remains available on the website throughout the period beginning one month before, and ending on, the date of any such meeting as is mentioned in subsection (2A).

(3C) The third condition is that the members of the transferee company were able to obtain copies of the documents mentioned in subsection (3), or any part of those documents, on request and free of charge, throughout the period beginning one month before, and ending on, the date of any such meeting as is mentioned in subsection (2A).

(3D) For the purposes of subsection (3C)—

(a) section 911A(5) applies as it applies for the purposes of section 911(1)(b), and

(b) Part 4 of Schedule 5 (communications by means of a website) does not apply.**]**

(4) The **[**F988fourth**]** condition is that—

(a) one or more members of that company, who together held not less than 5% of the paid-up capital of the company which carried the right to vote at general meetings of the company (excluding any shares in the company held as treasury shares) would have been able, during that period, to require a meeting of each class of members to be called for the purpose of deciding whether or not to agree to the scheme, and

(b) no such requirement was made.

Textual Amendments

F986 S. 918(2)-(2B) substituted (1.8.2011 with application in accordance with reg. 1(2)) for s. 918(2) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 17(2)**

F987 S. 918(3)-(3D) substituted (1.8.2011 with application in accordance with reg. 1(2)) for s. 918(3) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 17(3)**

F988 Word in s. 918(4) substituted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 17(4)**

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[F989 918A Agreement to dispense with [F990 reports etc] (merger)

(1) If all members holding shares in, and all persons holding other securities of, [F991 the merging companies], being shares or securities that carry a right to vote in general meetings of the company in question, so agree, [F992 the following requirements do not apply].

[F993 (1A) The requirements that may be dispensed with under this section are—

(a) the requirements of—

(i) i)section 908 (directors' explanatory report),

(ii) section 909 (expert's report),

(iii) section 910 (supplementary accounting statement), and

(iv) section 911B (report on material changes of assets of merging company); and

(b) the requirements of section 911 (inspection of documents) so far as relating to any document required to be drawn up under sections 908, 909 or 910.]

(2) For the purposes of this section—

(a) the members, or holders of other securities, of a company, and

(b) whether shares or other securities carry a right to vote in general meetings of the company,

are determined as at the date of [F994 the relevant application].]

[F995 (3) In subsection (2) "the relevant application" means—

(a) in the case of a compromise or arrangement to be sanctioned under Part 26, the application to the court under section 896;

(b) in the case of a compromise or arrangement to be sanctioned under Part 26A, the application to the court under section 901C(1).]

Textual Amendments

F989 S. 918A inserted (6.4.2008) by The Companies (Mergers and Divisions of Public Companies) (Amendment) Regulations 2008 (S.I. 2008/690), **reg. 2(2)**

F990 S. 918A: words in heading substituted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 18(4)**

F991 Words in s. 918A(1) substituted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 18(2)**

F992 Words in s. 918A(1) substituted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 18(2)**

F993 S. 918A(1A) inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 18(3)**

F994 Words in s. 918A(2) substituted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(9)(a)** (with ss. 2(2), 5(2))

F995 S. 918A(3) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(9)(b)** (with ss. 2(2), 5(2))

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CHAPTER 3

DIVISION

Introductory

919 Divisions and companies involved in a division

(1) The scheme involves a division where under the scheme the undertaking, property and liabilities of the company in respect of which the compromise or arrangement is proposed are to be divided among and transferred to two or more companies each of which is either—

(a) an existing public company, or

(b) a new company (whether or not a public company).

(2) References in this Part to the companies involved in the division are to the transferor company and any existing transferee companies.

Requirements to be complied with in case of division

920 Draft terms of scheme (division)

(1) A draft of the proposed terms of the scheme must be drawn up and adopted by the directors of each of the companies involved in the division.

(2) The draft terms must give particulars of at least the following matters—

(a) in respect of the transferor company and each transferee company—

(i) its name,

(ii) the address of its registered office, and

(iii) whether it is a company limited by shares or a company limited by guarantee and having a share capital;

(b) the number of shares in a transferee company to be allotted to members of the transferor company for a given number of their shares (the "share exchange ratio") and the amount of any cash payment;

(c) the terms relating to the allotment of shares in a transferee company;

(d) the date from which the holding of shares in a transferee company will entitle the holders to participate in profits, and any special conditions affecting that entitlement;

(e) the date from which the transactions of the transferor company are to be treated for accounting purposes as being those of a transferee company;

(f) any rights or restrictions attaching to shares or other securities in a transferee company to be allotted under the scheme to the holders of shares or other securities in the transferor company to which any special rights or restrictions attach, or the measures proposed concerning them;

(g) any amount of benefit paid or given or intended to be paid or given—

(i) to any of the experts referred to in section 924 (expert's report), or

(ii) to any director of a company involved in the division,

and the consideration for the payment of benefit.

(3) The draft terms must also—

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(a) give particulars of the property and liabilities to be transferred (to the extent that these are known to the transferor company) and their allocation among the transferee companies;

(b) make provision for the allocation among and transfer to the transferee companies of any other property and liabilities that the transferor company has acquired or may subsequently acquire; and

(c) specify the allocation to members of the transferor company of shares in the transferee companies and the criteria upon which that allocation is based.

921 Publication of draft terms [F996by registrar](division)

(1) The directors of each company involved in the division must deliver a copy of the draft terms to the registrar.

(2) The registrar must publish in the Gazette notice of receipt by him from that company of a copy of the draft terms.

(3) That notice must be published at least one month before the date of any meeting of that company summoned for the purposes of approving the scheme.

(4) The requirements in this section are subject to **[**F997section 921A (publication of draft terms on company website) and**]** section 934 (power of court to exclude certain requirements).

Textual Amendments

F996 S. 921: words in heading inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 19(2)**

F997 Words in s. 921(4) inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 19(1)**

[F998921APublication of draft terms on company website (division)

(1) Section 921 does not apply in respect of a company if the conditions in subsections (2) to (6) are met.

(2) The first condition is that the draft terms are made available on a website which—

(a) is maintained by or on behalf of the company, and

(b) identifies the company.

(3) The second condition is that neither access to the draft terms on the website nor the supply of a hard copy of them from the website is conditional on payment of a fee or otherwise restricted.

(4) The third condition is that the directors of the company deliver to the registrar a notice giving details of the website.

(5) The fourth condition is that the registrar publishes the notice in the Gazette at least one month before the date of any meeting of the company summoned for the purpose of approving the scheme.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(6) The fifth condition is that the draft terms remain available on the website throughout the period beginning one month before, and ending on, the date of any such meeting.**]**

Textual Amendments

F998 S. 921A inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 20**

922 Approval of members of companies involved in the division

(1) The **[**F999scheme**]** must be approved by a majority in number, representing 75% in value, of each class of members of each of the companies involved in the division, present and voting either in person or by proxy at a meeting.

(2) This requirement is subject to sections 931**[**F1000, 931A**]** and 932 (circumstances in which meeting of members not required).

Textual Amendments

F999 Word in s. 922(1) substituted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(10)(a)** (with ss. 2(2), 5(2))

F1000 Word in s. 922(2) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(10)(b)** (with ss. 2(2), 5(2))

923 Directors' explanatory report (division)

(1) The directors of the transferor and each existing transferee company must draw up and adopt a report.

(2) The report must consist of—

[F1001(a) the required statement explaining the effect of the compromise or arrangement,**]** and

(b) insofar as that statement does not deal with the following matters, a further statement—

(i) setting out the legal and economic grounds for the draft terms, and in particular for the share exchange ratio and for the criteria on which the allocation to the members of the transferor company of shares in the transferee companies was based, and

(ii) specifying any special valuation difficulties.

[F1002(2A) In subsection (2) "the required statement explaining the effect of the compromise or arrangement" means—

(a) in a case where a meeting is summoned under section 896 in relation to the compromise or arrangement, the statement required by section 897;

(b) in a case where a meeting is summoned under section 901C in relation to the compromise or arrangement, the statement required by section 901D.**]**

(3) The report must also state—

(a) whether a report has been made to any transferee company under section 593 (valuation of non-cash consideration for shares), and

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(b) if so, whether that report has been delivered to the registrar of companies.

(4) The requirement in this section is subject to section 933 (agreement to dispense with reports etc) **[**F1003and section 933A (certain requirements excluded where shareholders given proportional rights)**]**.

Textual Amendments

F1001 S. 923(2)(a) substituted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(11)(a)** (with ss. 2(2), 5(2))

F1002 S. 923(2A) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(11)(b)** (with ss. 2(2), 5(2))

F1003 Words in s. 923(4) inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 21**

Commencement Information

I325 S. 923 wholly in force at 6.4.2008; s. 923 not in force at Royal Assent see s. 1300; s. 923 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(m)** (with savings in arts. 7, 12 and subject to Sch. 1 para. 21)

924 Expert's report (division)

(1) An expert's report must be drawn up on behalf of each company involved in the division.

(2) The report required is a written report on the draft terms to the members of the company.

(3) The court may on the joint application of the companies involved in the division approve the appointment of a joint expert to draw up a single report on behalf of all those companies.

If no such appointment is made, there must be a separate expert's report to the members of each company involved in the division drawn up by a separate expert appointed on behalf of that company.

(4) The expert must be a person who—

(a) is eligible for appointment as a statutory auditor (see section 1212), and

(b) meets the independence requirement in section 936.

(5) The expert's report must—

(a) indicate the method or methods used to arrive at the share exchange ratio;

(b) give an opinion as to whether the method or methods used are reasonable in all the circumstances of the case, indicate the values arrived at using each such method and (if there is more than one method) give an opinion on the relative importance attributed to such methods in arriving at the value decided on;

(c) describe any special valuation difficulties that have arisen;

(d) state whether in the expert's opinion the share exchange ratio is reasonable; and

(e) in the case of a valuation made by a person other than himself (see section 935), state that it appeared to him reasonable to arrange for it to be so made or to accept a valuation so made.

(6) The expert (or each of them) has—

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(a) the right of access to all such documents of the companies involved in the division, and

(b) the right to require from the companies' officers all such information,

as he thinks necessary for the purposes of making his report.

(7) The requirement in this section is subject to section 933 (agreement to dispense with reports etc) **[**F1004and section 933A (certain requirements excluded where shareholders given proportional rights)**]**.

Textual Amendments

F1004 Words in s. 924(7) inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 22**

925 Supplementary accounting statement (division)

[F1005(1) This section applies if the last annual accounts of a company involved in the division relate to a financial year ending before—

(a) the date seven months before the first meeting of the company summoned for the purposes of approving the scheme, or

(b) if no meeting of the company is required (by virtue of section 931**[**F1006, 931A**]** or 932), the date six months before the directors of the company adopt the draft terms of the scheme.

(1A) If the company has not made public a half-yearly financial report relating to a period ending on or after the date mentioned in subsection (1), the directors of the company must prepare a supplementary accounting statement.**]**

(2) That statement must consist of—

(a) a balance sheet dealing with the state of affairs of the company as at a date not more than three months before the draft terms were adopted by the directors, and

(b) where the company would be required under section 399 to prepare group accounts if that date were the last day of a financial year, a consolidated balance sheet dealing with the state of affairs of the company and the undertakings that would be included in such a consolidation.

(3) The requirements of this Act F1007... as to the balance sheet forming part of a company's annual accounts, and the matters to be included in notes to it, apply to the balance sheet required for an accounting statement under this section, with such modifications as are necessary by reason of its being prepared otherwise than as at the last day of a financial year.

(4) The provisions of section 414 as to the approval and signing of accounts apply to the balance sheet required for an accounting statement under this section.

[F1008(4A) In this section " half-yearly financial report " means a report of that description required to be made public by rules under section 89A of the Financial Services and Markets Act 2000 (transparency rules). **]**

(5) The requirement in this section is subject to section 933 (agreement to dispense with reports etc) **[**F1009and section 933A (certain requirements excluded where shareholders given proportional rights)**]**.

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Textual Amendments

F1005 S. 925(1)(1A) substituted (1.8.2011 with application in accordance with reg. 1(2)) for s. 925(1) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 23(2)**

F1006 Word in s. 925(1)(b) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(12)** (with ss. 2(2), 5(2))

F1007 Words in s. 925(3) omitted (31.12.2020) by virtue of The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 1 para. 25** (with reg. 1(3)-(8), Sch. 1 para. 64) (as amended by S.I. 2020/335, regs. 1, 3, 4 and S.I. 2020/523, regs. 1(2), 22, 25(b)); 2020 c. 1, Sch. 5 para. 1(1)

F1008 S. 925(4A) inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 23(3)**

F1009 Words in s. 925(5) inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 23(4)**

926 Inspection of documents (division)

(1) The members of each company involved in the division must be able, during the period specified below—

(a) to inspect at the registered office of that company copies of the documents listed below relating to that company and every other company involved in the division, and

(b) to obtain copies of those documents or any part of them on request free of charge.

(2) The period referred to above is the period—

(a) beginning one month before, and

(b) ending on the date of,

the first meeting of the members, or any class of members, of the company for the purposes of approving the scheme.

(3) The documents referred to above are—

(a) the draft terms;

(b) the directors' explanatory report;

(c) the expert's report;

(d) the company's annual accounts and reports for the last three financial years ending on or before the first meeting of the members, or any class of members, of the company summoned for the purposes of approving the scheme; **F1010** . . .

(e) any supplementary accounting statement required by section 925**[F1011**; and

(f) if no statement is required by section 925 because the company has made public a recent half-yearly financial report (see subsection (1A) of that section), that report. **]**

[F1012(3A) The requirement in subsection (1)(a) is subject to section 926A(1) (publication of documents on company website).**]**

(4) The requirements in subsection (3)(b), (c) and (e) are subject to section 933 (agreement to dispense with reports etc) **[F1013**, section 933A (certain requirements excluded where shareholders given proportional rights)**]** and section 934 (power of court to exclude certain requirements).

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[F1014(5) Section 1145 (right to hard copy) does not apply to a document sent or supplied in accordance with subsection (1)(b) to a member who has consented to information being sent or supplied by the company by electronic means and has not revoked that consent.

(6) Part 4 of Schedule 5 (communications by means of a website) does not apply for the purposes of subsection (1)(b) (but see section 926A(5)).**]**

Textual Amendments

F1010 Word in s. 926(3)(d) omitted (1.8.2011 with application in accordance with reg. 1(2)) by virtue of The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 24(2)**

F1011 S. 926(3)(f) and preceding word inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 24(2)**

F1012 S. 926(3A) inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 24(3)**

F1013 Words in s. 926(4) inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 24(4)**

F1014 S. 926(5)(6) inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 24(5)**

[F1015926A Publication of documents on company website (division)

(1) Section 926(1)(a) does not apply to a document if the conditions in subsections (2) to (4) are met in relation to that document. This is subject to subsection (6).

(2) The first condition is that the document is made available on a website which—

(a) is maintained by or on behalf of the company, and

(b) identifies the company.

(3) The second condition is that access to the document on the website is not conditional on payment of a fee or otherwise restricted.

(4) The third condition is that the document remains available on the website throughout the period beginning one month before, and ending on, the date of any meeting of the company summoned for the purpose of approving the scheme.

(5) A person is able to obtain a copy of a document as required by section 926(1)(b) if—

(a) the conditions in subsections (2) and (3) are met in relation to that document, and

(b) the person is able, throughout the period specified in subsection (4)—

(i) i)to retain a copy of the document as made available on the website, and

(ii) to produce a hard copy of it.

(6) Where members of a company are able to obtain copies of a document only as mentioned in subsection (5), section 926(1)(a) applies to that document even if the conditions in subsections (2) to (4) are met.**]**

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Textual Amendments

F1015 S. 926A inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 25**

927 Report on material changes of assets of transferor company (division)

(1) The directors of the transferor company must report—

(a) to every meeting of the members, or any class of members, of that company summoned for the purpose of agreeing to the scheme, and

(b) to the directors of each existing transferee company,

any material changes in the property and liabilities of the transferor company between the date when the draft terms were adopted and the date of the meeting in question.

(2) The directors of each existing transferee company must in turn—

(a) report those matters to every meeting of the members, or any class of members, of that company summoned for the purpose of agreeing to the scheme, or

(b) send a report of those matters to every member entitled to receive notice of such a meeting.

(3) The requirement in this section is subject to section 933 (agreement to dispense with reports etc) **[**F1016and section 933A (certain requirements excluded where shareholders given proportional rights)**]**.

Textual Amendments

F1016 Words in s. 927(3) inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 26**

928 Approval of articles of new transferee company (division)

[F1017(1)**]** The articles of every new transferee company, or a draft of them, must be approved by ordinary resolution of the transferor company.

[F1018(2) Subsection (1) does not apply in the case of a compromise or arrangement to be sanctioned under Part 26A.**]**

Textual Amendments

F1017 S. 928 renumbered as s. 928(1) (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(13)(a)** (with ss. 2(2), 5(2))

F1018 S. 928(2) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(13)(b)** (with ss. 2(2), 5(2))

929 Protection of holders of securities to which special rights attached (division)

(1) The scheme must provide that where any securities of the transferor company (other than shares) to which special rights are attached are held by a person otherwise than

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as a member or creditor of the company, that person is to receive rights in a transferee company of equivalent value.

(2) Subsection (1) does not apply if—

(a) the holder has agreed otherwise, or

(b) the holder is, or under the scheme is to be, entitled to have the securities purchased by a transferee company on terms that the court considers reasonable.

[F1019 930 No allotment of shares to transferor company or its nominee (division)

The scheme must not provide for any shares in a transferee company to be allotted to—

(a) the transferor company (or its nominee) in respect of shares in the transferor company held by the transferor company itself (or its nominee); or

(b) a transferee company (or its nominee) in respect of shares in the transferor company held by the transferee company (or its nominee).**]**

Textual Amendments

F1019 S. 930 substituted (6.4.2008) by The Companies (Mergers and Divisions of Public Companies) (Amendment) Regulations 2008 (S.I. 2008/690), **reg. 4**

Exceptions where shares of transferor company held by transferee company

931 Circumstances in which meeting of members of transferor company not required (division)

(1) This section applies in the case of a division where all of the shares or other securities of the transferor company carrying the right to vote at general meetings of the company are held by or on behalf of one or more existing transferee companies.

(2) It is not necessary for the scheme to be approved by a meeting of the members, or any class of members, of the transferor company if the court is satisfied that the following conditions have been complied with.

[F1020 (3) The first condition is that either subsection (3A) or subsection (3B) is satisfied.

(3A) This subsection is satisfied if publication of notice of receipt of the draft terms by the registrar took place in respect of all the companies involved in the division at least one month before the date of the court's order.

(3B) This subsection is satisfied if—

(a) the conditions in section 921A(2) to (4) are met in respect of each of the companies involved in the division,

(b) in each case, the registrar published the notice mentioned in subsection (4) of that section in the Gazette at least one month before the date of the court's order, and

(c) the draft terms remained available on the website throughout the period beginning one month before, and ending on, that date.**]**

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[F1021(4) The second condition is that subsection (4A) or (4B) is satisfied for each of the documents listed in the applicable paragraphs of section 926(3) relating to every company involved in the division.

(4A) This subsection is satisfied for a document if the members of every company involved in the division were able during the period beginning one month before, and ending on, the date of the court's order to inspect that document at the registered office of their company.

(4B) This subsection is satisfied for a document if—

(a) the document is made available on a website which is maintained by or on behalf of the company to which it relates and identifies the company,

(b) access to the document on the website is not conditional on payment of a fee or otherwise restricted, and

(c) the document remains available on the website throughout the period beginning one month before, and ending on, the date of the court's order.

(4C) The third condition is that the members of every company involved in the division were able to obtain copies of the documents mentioned in subsection (4), or any part of those documents, on request and free of charge, throughout the period beginning one month before, and ending on, the date of the court's order.

(4D) For the purposes of subsection (4C)—

(a) section 926A(5) applies as it applies for the purposes of section 926(1)(b), and

(b) Part 4 of Schedule 5 (communications by means of a website) does not apply.**]**

(5) F1022. . . . . .

(6) The fourth condition is that the directors of the transferor company have sent—

(a) to every member who would have been entitled to receive notice of a meeting to agree to the scheme (had any such meeting been called), and

(b) to the directors of every existing transferee company,

a report of any material change in the property and liabilities of the transferor company between the date when the terms were adopted by the directors and the date one month before the date of the court's order.

Textual Amendments

F1020 S. 931(3)(3A)(3B) substituted (1.8.2011 with application in accordance with reg. 1(2)) for s. 931(3) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 27(2)**

F1021 S. 931(4)-(4D) substituted (1.8.2011 with application in accordance with reg. 1(2)) for s. 931(4) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 27(3)**

F1022 S. 931(5) omitted (1.8.2011 with application in accordance with reg. 1(2)) by virtue of The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 27(4)**

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Other exceptions

[F1023 931A Other circumstances in which meeting of members of transferor company not required (division)

In the case of a compromise or arrangement to be sanctioned under Part 26A, it is not necessary for the scheme to be approved by the members of the transferor company.**]**

Textual Amendments

F1023 S. 931A inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(14)** (with ss. 2(2), 5(2))

932 Circumstances in which meeting of members of transferee company not required (division)

(1) In the case of a division, it is not necessary for the scheme to be approved by the members of a transferee company if the court is satisfied that the following conditions have been complied with in relation to that company.

[F1024(2) The first condition is that either subsection (2A) or subsection (2B) is satisfied.

(2A) This subsection is satisfied if publication of notice of receipt of the draft terms by the registrar took place in respect of the transferee company at least one month before the date of the first meeting of members of the transferor company summoned for the purposes of agreeing to the scheme.

(2B) This subsection is satisfied if—

(a) the conditions in section 921A(2) to (4) are met in respect of the transferee company,

(b) the registrar published the notice mentioned in subsection (4) of that section in the Gazette at least one month before the date of the first meeting of members of the transferor company summoned for the purposes of agreeing to the scheme, and

(c) the draft terms remained available on the website throughout the period beginning one month before, and ending on, that date.**]**

[F1025(3) The second condition is that subsection (3A) or (3B) is satisfied for each of the documents listed in the applicable paragraphs of section 926(3) relating to the transferee company and every other company involved in the division.

(3A) This subsection is satisfied for a document if the members of the transferee company were able during the period beginning one month before, and ending on, the date mentioned in subsection (2A) to inspect that document at the registered office of that company.

(3B) This subsection is satisfied for a document if—

(a) the document is made available on a website which is maintained by or on behalf of the transferee company and identifies the company,

(b) access to the document on the website is not conditional on payment of a fee or otherwise restricted, and

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(c) the document remains available on the website throughout the period beginning one month before, and ending on, the date mentioned in subsection (2A).

(3C) The third condition is that the members of the transferee company were able to obtain copies of the documents mentioned in subsection (3), or any part of those documents, on request and free of charge, throughout the period beginning one month before, and ending on, the date mentioned in subsection (2A).

(3D) For the purposes of subsection (3C)—

(a) section 926A(5) applies as it applies for the purposes of section 926(1)(b), and

(b) Part 4 of Schedule 5 (communications by means of a website) does not apply.**]**

(4) The **[**F1026fourth**]** condition is that—

(a) one or more members of that company, who together held not less than 5% of the paid-up capital of the company which carried the right to vote at general meetings of the company (excluding any shares in the company held as treasury shares) would have been able, during that period, to require a meeting of each class of members to be called for the purpose of deciding whether or not to agree to the scheme, and

(b) no such requirement was made.

(5) The **[**F1027first, second and third**]** conditions above are subject to section 934 (power of court to exclude certain requirements).

Textual Amendments

F1024 S. 932(2)(2A)(2B) substituted 1.8.2011 with application in accordance with reg. 1(2)) for s. 932(2) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 28(2)**

F1025 S. 932(3)-(3D) substituted (1.8.2011 with application in accordance with reg. 1(2)) for s. 932(3) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 28(3)**

F1026 Words in s. 932(4) substituted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 28(4)**

F1027 Words in s. 932(5) substituted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 28(5)**

933 Agreement to dispense with reports etc (division)

(1) If all members holding shares in, and all persons holding other securities of, the companies involved in the division, being shares or securities that carry a right to vote in general meetings of the company in question, so agree, the following requirements do not apply.

(2) The requirements that may be dispensed with under this section are—

(a) the requirements of—

(i) section 923 (directors' explanatory report),

(ii) section 924 (expert's report),

(iii) section 925 (supplementary accounting statement), and

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(iv) section 927 (report on material changes in assets of transferor company); and

(b) the requirements of section 926 (inspection of documents) so far as relating to any document required to be drawn up under the provisions mentioned in paragraph (a)(i), (ii) or (iii) above.

(3) For the purposes of this section—

(a) the members, or holders of other securities, of a company, and

(b) whether shares or other securities carry a right to vote in general meetings of the company,

are determined as at the date of **[**F1028the relevant application**]**.

[F1029(4) In subsection (3) "the relevant application" means—

(a) in the case of a compromise or arrangement to be sanctioned under Part 26, the application to the court under section 896;

(b) in the case of a compromise or arrangement to be sanctioned under Part 26A, the application to the court under section 901C(1).**]**

Textual Amendments

F1028 Words in s. 933(3) substituted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(15)(a)** (with ss. 2(2), 5(2))

F1029 S. 933(4) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(15)(b)** (with ss. 2(2), 5(2))

[F1030933A Certain requirements excluded where shareholders given proportional rights (division)

(1) This section applies in the case of a division where each of the transferee companies is a new company.

(2) If all the shares in each of the transferee companies are to be allotted to the members of the transferor company in proportion to their rights in the allotted share capital of the transferor company, the following requirements do not apply.

(3) The requirements which do not apply are—

(a) the requirements of—

(i) i)section 923 (directors' explanatory report),

(ii) section 924 (expert's report),

(iii) section 925 (supplementary accounting statement), and

(iv) section 927 (report on material changes in assets of transferor company); and

(b) the requirements of section 926 (inspection of documents) so far as relating to any document required to be drawn up under the provisions mentioned in paragraph (a)(i), (ii) or (iii) above.**]**

Textual Amendments

F1030 S. 933A inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 29**

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934 Power of court to exclude certain requirements (division)

(1) In the case of a division, the court may by order direct that—

(a) in relation to any company involved in the division, the requirements of—

(i) section 921 (publication of draft terms), and

(ii) section 926 (inspection of documents),

do not apply, and

(b) in relation to an existing transferee company, section 932 (circumstances in which meeting of members of transferee company not required) has effect with the omission of the **[**F1031first, second and third**]** conditions specified in that section,

if the court is satisfied that the following conditions will be fulfilled in relation to that company.

(2) The first condition is that the members of that company will have received, or will have been able to obtain free of charge, copies of the documents listed in section 926—

(a) in time to examine them before the date of the first meeting of the members, or any class of members, of that company summoned for the purposes of agreeing to the scheme, or

(b) in the case of an existing transferee company where in the circumstances described in section 932 no meeting is held, in time to require a meeting as mentioned in subsection (4) of that section.

(3) The second condition is that the creditors of that company will have received or will have been able to obtain free of charge copies of the draft terms in time to examine them—

(a) before the date of the first meeting of the members, or any class of members, of the company summoned for the purposes of agreeing to the scheme, or

(b) in the circumstances mentioned in subsection (2)(b) above, at the same time as the members of the company.

(4) The third condition is that no prejudice would be caused to the members or creditors of the transferor company or any transferee company by making the order in question.

Textual Amendments

F1031 Words in s. 934(1)(b) substituted (1.8.2011with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 30**

CHAPTER 4

SUPPLEMENTARY PROVISIONS

Expert's report and related matters

935 Expert's report: valuation by another person

(1) Where it appears to an expert—

Status: *Point in time view as at 31/12/2020.*
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(a) that a valuation is reasonably necessary to enable him to draw up his report, and

(b) that it is reasonable for that valuation, or part of it, to be made by (or for him to accept a valuation made by) another person who—

(i) appears to him to have the requisite knowledge and experience to make the valuation or that part of it, and

(ii) meets the independence requirement in section 936,

he may arrange for or accept such a valuation, together with a report which will enable him to make his own report under section 909 or 924.

(2) Where any valuation is made by a person other than the expert himself, the latter's report must state that fact and must also—

(a) state the former's name and what knowledge and experience he has to carry out the valuation, and

(b) describe so much of the undertaking, property and liabilities as was valued by the other person, and the method used to value them, and specify the date of the valuation.

936 Experts and valuers: independence requirement

(1) A person meets the independence requirement for the purposes of section 909 or 924 (expert's report) or section 935 (valuation by another person) only if—

(a) he is not—

(i) an officer or employee of any of the companies concerned in the scheme, or

(ii) a partner or employee of such a person, or a partnership of which such a person is a partner;

(b) he is not—

(i) an officer or employee of an associated undertaking of any of the companies concerned in the scheme, or

(ii) a partner or employee of such a person, or a partnership of which such a person is a partner; and

(c) there does not exist between—

(i) the person or an associate of his, and

(ii) any of the companies concerned in the scheme or an associated undertaking of such a company,

a connection of any such description as may be specified by regulations made by the Secretary of State.

(2) An auditor of a company is not regarded as an officer or employee of the company for this purpose.

(3) For the purposes of this section—

(a) the "companies concerned in the scheme" means every transferor and existing transferee company;

(b) "associated undertaking", in relation to a company, means—

(i) a parent undertaking or subsidiary undertaking of the company, or

(ii) a subsidiary undertaking of a parent undertaking of the company; and

(c) "associate" has the meaning given by section 937.

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(4) Regulations under this section are subject to negative resolution procedure.

Commencement Information

I326 S. 936 wholly in force at 6.4.2008; s. 936 not in force at Royal Assent, see s. 1300; s. 936 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 936 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(m)** (with savings in arts. 7, 12 and subject to Sch. 1 para. 21)

937 Experts and valuers: meaning of "associate"

(1) This section defines "associate" for the purposes of section 936 (experts and valuers: independence requirement).

(2) In relation to an individual, "associate" means—

(a) that individual's spouse or civil partner or minor child or step-child,

(b) any body corporate of which that individual is a director, and

(c) any employee or partner of that individual.

(3) In relation to a body corporate, "associate" means—

(a) any body corporate of which that body is a director,

(b) any body corporate in the same group as that body, and

(c) any employee or partner of that body or of any body corporate in the same group.

(4) In relation to a partnership that is a legal person under the law by which it is governed, "associate" means—

(a) any body corporate of which that partnership is a director,

(b) any employee of or partner in that partnership, and

(c) any person who is an associate of a partner in that partnership.

(5) In relation to a partnership that is not a legal person under the law by which it is governed, "associate" means any person who is an associate of any of the partners.

(6) In this section, in relation to a limited liability partnership, for "director" read "member".

Powers of the court

938 Power of court to summon meeting of members or creditors of existing transferee company

(1) The court may order a meeting of—

(a) the members of an existing transferee company, or any class of them, or

(b) the creditors of an existing transferee company, or any class of them,

to be summoned in such manner as the court directs.

(2) An application for such an order may be made by—

(a) the company concerned,

(b) a member or creditor of the company, or

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[F1032(c) if the company is being wound up, the liquidator, or

(d) if the company is in administration, the administrator.**]**

[F1033(3) Section 323 (representation of corporations at meetings) applies to a meeting of creditors under this section as to a meeting of the company (references to a member being read as references to a creditor).**]**

Textual Amendments

F1032 S. 938(2)(c)(d) substituted for s. 938(2)(c) (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 260(5)** (with art. 10)

F1033 S. 938(3) added (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 251** (with arts. 6, 11, 12)

939 Court to fix date for transfer of undertaking etc of transferor company

(1) Where the court sanctions the compromise or arrangement, it must—

(a) in the order sanctioning the compromise or arrangement, or

(b) in a subsequent order under section 900 **[**F1034or, as the case may be, section 901J**]** (powers of court to facilitate reconstruction or amalgamation),

fix a date on which the transfer (or transfers) to the transferee company (or transferee companies) of the undertaking, property and liabilities of the transferor company is (or are) to take place.

(2) Any such order that provides for the dissolution of the transferor company must fix the same date for the dissolution.

(3) If it is necessary for the transferor company to take steps to ensure that the undertaking, property and liabilities are fully transferred, the court must fix a date, not later than six months after the date fixed under subsection (1), by which such steps must be taken.

(4) In that case, the court may postpone the dissolution of the transferor company until that date.

(5) The court may postpone or further postpone the date fixed under subsection (3) if it is satisfied that the steps mentioned cannot be completed by the date (or latest date) fixed under that subsection.

Textual Amendments

F1034 Words in s. 939(1)(b) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(16)** (with ss. 2(2), 5(2))

Liability of transferee companies

940 Liability of transferee companies for each other's defaults

(1) In the case of a division, each transferee company is jointly and severally liable for any liability transferred to any other transferee company under the scheme to the extent that the other company has made default in satisfying that liability.

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This is subject to the following provisions.

(2) If**[**[F1035], in the case of a compromise or arrangement to be sanctioned under Part 26,**]** a majority in number representing 75% in value of the creditors or any class of creditors of the transferor company, present and voting either in person or by proxy at a meeting summoned for the purposes of agreeing to the scheme, so agree, subsection (1) does not apply in relation to the liabilities owed to the creditors or that class of creditors.

[[F1036](2A) If, in the case of a compromise or arrangement to be sanctioned under Part 26A, a number representing 75% in value of the creditors or any class of creditors of the transferor company, present and voting either in person or by proxy at a meeting summoned for the purposes of agreeing to the scheme, so agree, subsection (1) does not apply in relation to the liabilities owed to the creditors or that class of creditors.**]**

(3) A transferee company is not liable under this section for an amount greater than the net value transferred to it under the scheme.

The "net value transferred" is the value at the time of the transfer of the property transferred to it under the scheme less the amount at that date of the liabilities so transferred.

Textual Amendments

F1035 Words in s. 940(2) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(17)(a)** (with ss. 2(2), 5(2))

F1036 S. 940(2A) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 36(17)(b)** (with ss. 2(2), 5(2))

I[F1037] *Disruption of websites*

Textual Amendments

F1037 S. 940A and cross-heading inserted (1.8.2011 with application in accordance with reg. 1(2)) by The Companies (Reporting Requirements in Mergers and Divisions) Regulations 2011 (S.I. 2011/1606), **reg. 31**

940A Disregard of website failures beyond control of company

(1) A failure to make information or a document available on the website throughout a period specified in any of the provisions mentioned in subsection (2) is to be disregarded if—

(a) it is made available on the website for part of that period, and

(b) the failure to make it available throughout that period is wholly attributable to circumstances that it would not be reasonable to have expected the company to prevent or avoid.

(2) The provisions referred to above are—

(a) section 906A(6),

(b) section 911A(4),

(c) section 916(3B) and (4B),

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(d) section 917(3B) and (4B),
(e) section 918(2B) and (3B),
(f) section 921A(6),
(g) section 926A(4),
(h) section 931(3B) and (4B), and
(i) section 932(2B) and (3B).**]**

Interpretation

941 Meaning of "liabilities" and "property"

In this Part—

"liabilities" includes duties;

"property" includes property, rights and powers of every description.

PART 28

TAKEOVERS ETC

Modifications etc. (not altering text)
C1244 Pt. 28 modified (10.1.2015) by The Bank Recovery and Resolution (No. 2) Order 2014 (S.I. 2014/3348), arts. 1(2), **219(2)**
C1245 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

CHAPTER 1

THE TAKEOVER PANEL

Modifications etc. (not altering text)
C1246 Pt. 28 Ch. 1 extended (Isle of Man) (with modifications) (1.3.2009) by The Companies Act 2006 (Extension of Takeover Panel Provisions) (Isle of Man) Order 2008 (S.I. 2008/3122), **art. 2**, Sch.
C1247 Pt. 28 Ch. 1 extended (Isle of Man) (with modifications) (31.12.2020) by The Companies Act 2006 (Extension of Takeover Panel Provisions) (Isle of Man) Order 2019 (S.I. 2019/567), regs. 1, 2, **Sch.**; 2020 c. 1, Sch. 5 para. 1(1)

The Panel and its rules

942 The Panel

(1) The body known as the Panel on Takeovers and Mergers ("the Panel") is to have the functions conferred on it by or under this Chapter.

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(2) The Panel may do anything that it considers necessary or expedient for the purposes of, or in connection with, its functions.

(3) The Panel may make arrangements for any of its functions to be discharged by—

(a) a committee or sub-committee of the Panel, or

(b) an officer or member of staff of the Panel, or a person acting as such.

This is subject to section 943(4) and (5).

943 Rules

[F1038(1) The Panel must make rules—

(a) giving effect to the general principles in Part 1 of Schedule 1C, and

(b) in accordance with Part 2 of that Schedule.**]**

[F1039(1A) Rules must specify the percentage of voting rights that gives a person control of a company for the purposes of this Chapter and how it is to be calculated.**]**

(2) Rules made by the Panel may also make other provision—

(a) for or in connection with the regulation of—

(i) takeover bids,

(ii) merger transactions, and

(iii) transactions (not falling within sub-paragraph (i) or (ii)) that have or may have, directly or indirectly, an effect on the ownership or control of companies;

(b) for or in connection with the regulation of things done in consequence of, or otherwise in relation to, any such bid or transaction;

(c) about cases where—

(i) any such bid or transaction is, or has been, contemplated or apprehended, or

(ii) an announcement is made denying that any such bid or transaction is intended.

(3) The provision that may be made under subsection (2) includes, in particular, provision for a matter that is, or is similar to, a matter provided for by the Panel in the City Code on Takeovers and Mergers as it had effect immediately before the passing of this Act.

(4) In relation to rules made by virtue of section 957 (fees and charges), functions under this section may be discharged either by the Panel itself or by a committee of the Panel (but not otherwise).

(5) In relation to rules of any other description, the Panel must discharge its functions under this section by a committee of the Panel.

(6) Section 1 (meaning of "company") does not apply for the purposes of this section.

(7) In this section "takeover bid" includes a takeover bid within the meaning **[**F1040given by paragraph 20(1) of Schedule 1C**]**.

F1041(8) . . . . . .

(9) A reference to rules in the following provisions of this Chapter is to rules under this section.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F1038 S. 943(1) substituted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **3(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1039 S. 943(1A) inserted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **3(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F1040 Words in s. 943(7) substituted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **3(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F1041 S. 943(8) omitted (31.12.2020) by virtue of The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **3(d)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I327 S. 943 wholly in force at 6.4.2007; s. 943 not in force at Royal Assent, see s. 1300; s. 943 wholly in force at 6.4.2007 by S.I. 2007/1093 {art. 2(1)(b)} (subject to transitional adaptations in Sch. 1 para. 2(2) (which Sch. 1 was revoked by S.I. 2008/2860, art. 6))

944 Further provisions about rules

(1) Rules may—

(a) make different provision for different purposes;

(b) make provision subject to exceptions or exemptions;

(c) contain incidental, supplemental, consequential or transitional provision;

(d) authorise the Panel to dispense with or modify the application of rules in particular cases and by reference to any circumstances.

Rules made by virtue of paragraph (d) must require the Panel to give reasons for acting as mentioned in that paragraph.

(2) Rules must be made by an instrument in writing.

(3) Immediately after an instrument containing rules is made, the text must be made available to the public, with or without payment, in whatever way the Panel thinks appropriate.

(4) A person is not to be taken to have contravened a rule if he shows that at the time of the alleged contravention the text of the rule had not been made available as required by subsection (3).

(5) The production of a printed copy of an instrument purporting to be made by the Panel on which is endorsed a certificate signed by an officer of the Panel authorised by it for that purpose and stating—

(a) that the instrument was made by the Panel,

(b) that the copy is a true copy of the instrument, and

(c) that on a specified date the text of the instrument was made available to the public as required by subsection (3),

is evidence (or in Scotland sufficient evidence) of the facts stated in the certificate.

(6) A certificate purporting to be signed as mentioned in subsection (5) is to be treated as having been properly signed unless the contrary is shown.

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(7) A person who wishes in any legal proceedings to rely on an instrument by which rules are made may require the Panel to endorse a copy of the instrument with a certificate of the kind mentioned in subsection (5).

945 Rulings

(1) The Panel may give rulings on the interpretation, application or effect of rules.

(2) To the extent and in the circumstances specified in rules, and subject to any review or appeal, a ruling has binding effect.

946 Directions

Rules may contain provision conferring power on the Panel to give any direction that appears to the Panel to be necessary in order—

(a) to restrain a person from acting (or continuing to act) in breach of rules;

(b) to restrain a person from doing (or continuing to do) a particular thing, pending determination of whether that or any other conduct of his is or would be a breach of rules;

(c) otherwise to secure compliance with rules.

Information

947 Power to require documents and information

(1) The Panel may by notice in writing require a person—

(a) to produce any documents that are specified or described in the notice;

(b) to provide, in the form and manner specified in the notice, such information as may be specified or described in the notice.

(2) A requirement under subsection (1) must be complied with—

(a) at a place specified in the notice, and

(b) before the end of such reasonable period as may be so specified.

(3) This section applies only to documents and information reasonably required in connection with the exercise by the Panel of its functions.

(4) The Panel may require—

(a) any document produced to be authenticated, or

(b) any information provided (whether in a document or otherwise) to be verified,

in such manner as it may reasonably require.

(5) The Panel may authorise a person to exercise any of its powers under this section.

(6) A person exercising a power by virtue of subsection (5) must, if required to do so, produce evidence of his authority to exercise the power.

(7) The production of a document in pursuance of this section does not affect any lien that a person has on the document.

(8) The Panel may take copies of or extracts from a document produced in pursuance of this section.

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(9) A reference in this section to the production of a document includes a reference to the production of—

(a) a hard copy of information recorded otherwise than in hard copy form, or

(b) information in a form from which a hard copy can be readily obtained.

(10) A person is not required by this section to disclose documents or information in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

948 Restrictions on disclosure

(1) This section applies to information (in whatever form)—

(a) relating to the private affairs of an individual, or

(b) relating to any particular business,

that is provided to the Panel in connection with the exercise of its functions.

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

(3) Subsection (2) does not apply to any disclosure of information that—

(a) is made for the purpose of facilitating the carrying out by the Panel of any of its functions,

(b) is made to a person specified in Part 1 of Schedule 2,

(c) is of a description specified in Part 2 of that Schedule, or

(d) is made in accordance with Part 3 of that Schedule.

(4) The Secretary of State may amend Schedule 2 by order subject to negative resolution procedure.

(5) An order under subsection (4) must not—

(a) amend Part 1 of Schedule 2 by specifying a person unless the person exercises functions of a public nature (whether or not he exercises any other function);

(b) amend Part 2 of Schedule 2 by adding or modifying a description of disclosure unless the purpose for which the disclosure is permitted is likely to facilitate the exercise of a function of a public nature;

(c) amend Part 3 of Schedule 2 so as to have the effect of permitting disclosures to be made to a body other than one that exercises functions of a public nature in a country or territory outside the United Kingdom.

(6) Subsection (2) does not apply to—

(a) the disclosure by an authority within subsection (7) of information disclosed to it by the Panel in reliance on subsection (3);

(b) the disclosure of such information by anyone who has obtained it directly or indirectly from an authority within subsection (7).

(7) The authorities within this subsection are—

[F1042(a) the Financial Conduct Authority;

(aa) the Prudential Regulation Authority;

(ab) the Bank of England;**]**

F1043(b) . . . . . .

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F1044(c) . . . . . .

(8) This section does not prohibit the disclosure of information if the information is or has been available to the public from any other source.

(9) Nothing in this section authorises the making of a disclosure in contravention of **[**F1045the data protection legislation**]**.

Textual Amendments

F1042 S. 948(7)(a)-(ab) substituted for s. 948(7)(a) (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 118(a)** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

F1043 S. 948(7)(b) omitted (31.12.2020) by virtue of The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **4**; 2020 c. 1, Sch. 5 para. 1(1)

F1044 S. 948(7)(c) omitted (31.12.2020) by virtue of The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **4**; 2020 c. 1, Sch. 5 para. 1(1)

F1045 Words in s. 948(9) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 123** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

Commencement Information

I328 S. 948 wholly in force at 6.4.2007; s. 948 not in force at Royal Assent, see s. 1300; s. 948 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)); s. 948 wholly in force at 6.4.2007 by S.I. 2007/1093 {art. 2(1)(b))}

949 Offence of disclosure in contravention of section 948

(1) A person who discloses information in contravention of section 948 is guilty of an offence, unless—

(a) he did not know, and had no reason to suspect, that the information had been provided as mentioned in section 948(1), or

(b) he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

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

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Co-operation

950 Panel's duty of co-operation

(1) The Panel must take such steps as it considers appropriate to co-operate with—

[[F1046](a) the Financial Conduct Authority;

(aa) the Prudential Regulation Authority;

(ab) the Bank of England;**]**

[F1047](b) . . . . . .

(c) any other person or body that exercises functions of a public nature, under legislation in any country or territory outside the United Kingdom, that appear to the Panel to be similar to its own functions or those of the **[**[F1048]Financial Conduct Authority or the Prudential Regulation Authority or similar to the regulatory functions of the Bank of England**]**.

(2) Co-operation may include the sharing of information that the Panel is not prevented from disclosing.

Textual Amendments

F1046 S. 950(1)(a)-(ab) substituted for s. 950(1)(a) (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 119(a)** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

F1047 S. 950(1)(b) omitted (31.12.2020) by virtue of The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **5**; 2020 c. 1, Sch. 5 para. 1(1)

F1048 Words in s. 950(1)(c) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 119(b)** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

Hearings and appeals

951 Hearings and appeals

(1) Rules must provide for a decision of the Panel to be subject to review by a committee of the Panel (the "Hearings Committee") at the instance of such persons affected by the decision as are specified in the rules.

(2) Rules may also confer other functions on the Hearings Committee.

(3) Rules must provide for there to be a right of appeal against a decision of the Hearings Committee to an independent tribunal (the "Takeover Appeal Board") in such circumstances and subject to such conditions as are specified in the rules.

(4) Rules may contain—

(a) provision as to matters of procedure in relation to proceedings before the Hearings Committee (including provision imposing time limits);

(b) provision about evidence in such proceedings;

(c) provision as to the powers of the Hearings Committee dealing with a matter referred to it;

(d) provision about enforcement of decisions of the Hearings Committee and the Takeover Appeal Board.

(5) Rules must contain provision—

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(a) requiring the Panel, when acting in relation to any proceedings before the Hearings Committee or the Takeover Appeal Board, to do so by an officer or member of staff of the Panel (or a person acting as such);

(b) preventing a person who is or has been a member of the committee mentioned in section 943(5) from being a member of the Hearings Committee or the Takeover Appeal Board;

(c) preventing a person who is a member of the committee mentioned in section 943(5), of the Hearings Committee or of the Takeover Appeal Board from acting as mentioned in paragraph (a).

Contravention of rules etc

952 Sanctions

(1) Rules may contain provision conferring power on the Panel to impose sanctions on a person who has—

(a) acted in breach of rules, or

(b) failed to comply with a direction given by virtue of section 946.

(2) Subsection (3) applies where rules made by virtue of subsection (1) confer power on the Panel to impose a sanction of a kind not provided for by the City Code on Takeovers and Mergers as it had effect immediately before the passing of this Act.

(3) The Panel must prepare a statement (a "policy statement") of its policy with respect to—

(a) the imposition of the sanction in question, and

(b) where the sanction is in the nature of a financial penalty, the amount of the penalty that may be imposed.

An element of the policy must be that, in making a decision about any such matter, the Panel has regard to the factors mentioned in subsection (4).

(4) The factors are—

(a) the seriousness of the breach or failure in question in relation to the nature of the rule or direction contravened;

(b) the extent to which the breach or failure was deliberate or reckless;

(c) whether the person on whom the sanction is to be imposed is an individual.

(5) The Panel may at any time revise a policy statement.

(6) The Panel must prepare a draft of any proposed policy statement (or revised policy statement) and consult such persons about the draft as the Panel considers appropriate.

(7) The Panel must publish, in whatever way it considers appropriate, any policy statement (or revised policy statement) that it prepares.

(8) In exercising, or deciding whether to exercise, its power to impose a sanction within subsection (2) in the case of any particular breach or failure, the Panel must have regard to any relevant policy statement published and in force at the time when the breach or failure occurred.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

953 Failure to comply with rules about bid documentation

(1) This section applies where a takeover bid is made for a company that has securities carrying voting rights admitted to trading on a regulated market in the United Kingdom.

(2) Where an offer document published in respect of the bid does not comply with offer document rules, an offence is committed by—

(a) the person making the bid, and

(b) where the person making the bid is a body of persons, any director, officer or member of that body who caused the document to be published.

(3) A person commits an offence under subsection (2) only if—

(a) he knew that the offer document did not comply, or was reckless as to whether it complied, and

(b) he failed to take all reasonable steps to secure that it did comply.

(4) Where a response document published in respect of the bid does not comply with response document rules, an offence is committed by any director or other officer of the company referred to in subsection (1) who—

(a) knew that the response document did not comply, or was reckless as to whether it complied, and

(b) failed to take all reasonable steps to secure that it did comply.

(5) Where an offence is committed under subsection (2)(b) or (4) by a company or other body corporate ("the relevant body")—

(a) subsection (2)(b) has effect as if the reference to a director, officer or member of the person making the bid included a reference to a director, officer or member of the relevant body;

(b) subsection (4) has effect as if the reference to a director or other officer of the company referred to in subsection (1) included a reference to a director, officer or member of the relevant body.

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

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

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

(7) Nothing in this section affects any power of the Panel in relation to the enforcement of its rules.

(8) Section 1 (meaning of "company") does not apply for the purposes of this section.

(9) In this section—

"designated" means designated in rules;

"offer document" means a document required to be published by rules **[**F1049made in accordance with paragraph 12(1) to (3) of Schedule 1C;**]**

[F1050"offer document rules" means rules under section 943(1) designated as rules made in accordance with paragraph 12(4) of Schedule 1C;**]**

"response document" means a document required to be published by rules **[**F1051made in accordance with paragraph 18 of Schedule 1C;**]**

[F1052"response document rules" means rules under section 943(1) designated as rules made in accordance with paragraph 18(1) of Schedule 1C;**]**

"securities" means shares or debentures;

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"takeover bid" has the **[**F1053meaning given by paragraph 20(1) of Schedule 1C;**]**

"voting rights" means rights to vote at general meetings of the company in question, including rights that arise only in certain circumstances.

Textual Amendments

F1049 Words in s. 953(9) substituted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **6(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1050 Words in s. 953(9) substituted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **6(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F1051 Words in s. 953(9) substituted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **6(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F1052 Words in s. 953(9) substituted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **6(d)**; 2020 c. 1, Sch. 5 para. 1(1)

F1053 Words in s. 953(9) substituted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **6(e)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I329 S. 953 wholly in force at 6.4.2007; s. 953 not in force at Royal Assent, see s. 1300; s. 953 wholly in force at 6.4.2007 by S.I. 2007/1093 {art. 2(1)(b)} (subject to transitional adaptations in Sch. 1 para. 3(2))

954 Compensation

(1) Rules may confer power on the Panel to order a person to pay such compensation as it thinks just and reasonable if he is in breach of a rule the effect of which is to require the payment of money.

(2) Rules made by virtue of this section may include provision for the payment of interest (including compound interest).

955 Enforcement by the court

(1) If, on the application of the Panel, the court is satisfied—

(a) that there is a reasonable likelihood that a person will contravene a rule-based requirement, or

(b) that a person has contravened a rule-based requirement or a disclosure requirement,

the court may make any order it thinks fit to secure compliance with the requirement.

(2) In subsection (1) "the court" means the High Court or, in Scotland, the Court of Session.

(3) Except as provided by subsection (1), no person—

(a) has a right to seek an injunction, or

(b) in Scotland, has title or interest to seek an interdict or an order for specific performance,

to prevent a person from contravening (or continuing to contravene) a rule-based requirement or a disclosure requirement.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(4) In this section—

"contravene" includes fail to comply;

"disclosure requirement" means a requirement imposed under section 947;

"rule-based requirement" means a requirement imposed by or under rules.

956 No action for breach of statutory duty etc

(1) Contravention of a rule-based requirement or a disclosure requirement does not give rise to any right of action for breach of statutory duty.

(2) Contravention of a rule-based requirement does not make any transaction void or unenforceable or (subject to any provision made by rules) affect the validity of any other thing.

(3) In this section—

(a) "contravention" includes failure to comply;

(b) "disclosure requirement" and "rule-based requirement" have the same meaning as in section 955.

Funding

957 Fees and charges

(1) Rules may provide for fees or charges to be payable to the Panel for the purpose of meeting any part of its expenses.

(2) A reference in this section or section 958 to expenses of the Panel is to any expenses that have been or are to be incurred by the Panel in, or in connection with, the discharge of its functions, including in particular—

(a) payments in respect of the expenses of the Takeover Appeal Board;

(b) the cost of repaying the principal of, and of paying any interest on, any money borrowed by the Panel;

(c) the cost of maintaining adequate reserves.

958 Levy

(1) For the purpose of meeting any part of the expenses of the Panel, the Secretary of State may by regulations provide for a levy to be payable to the Panel—

(a) by specified persons or bodies, or persons or bodies of a specified description, or

(b) on transactions, of a specified description, in securities on specified markets.

In this subsection "specified" means specified in the regulations.

(2) The power to specify (or to specify descriptions of) persons or bodies must be exercised in such a way that the levy is payable only by persons or bodies that appear to the Secretary of State—

(a) to be capable of being directly affected by the exercise of any of the functions of the Panel, or

(b) otherwise to have a substantial interest in the exercise of any of those functions.

Status: *Point in time view as at 31/12/2020.*
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(3) Regulations under this section may in particular—

(a) specify the rate of the levy and the period in respect of which it is payable at that rate;

(b) make provision as to the times when, and the manner in which, payments are to be made in respect of the levy.

(4) In determining the rate of the levy payable in respect of a particular period, the Secretary of State—

(a) must take into account any other income received or expected by the Panel in respect of that period;

(b) may take into account estimated as well as actual expenses of the Panel in respect of that period.

(5) The Panel must—

(a) keep proper accounts in respect of any amounts of levy received by virtue of this section;

(b) prepare, in relation to each period in respect of which any such amounts are received, a statement of account relating to those amounts in such form and manner as is specified in the regulations.

Those accounts must be audited, and the statement certified, by persons appointed by the Secretary of State.

(6) Regulations under this section—

(a) are subject to affirmative resolution procedure if subsection (7) applies to them;

(b) otherwise, are subject to negative resolution procedure.

(7) This subsection applies to—

(a) the first regulations under this section;

(b) any other regulations under this section that would result in a change in the persons or bodies by whom, or the transactions on which, the levy is payable.

(8) If a draft of an instrument containing regulations under this section would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.

Commencement Information

I330 S. 958 wholly in force at 6.4.2007; s. 958 not in force at Royal Assent, see s. 1300; s. 958 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)); s. 958 wholly in force at 6.4.2007 by S.I. 2007/1093 {art. 2(1)(b)}

959 Recovery of fees, charges or levy

An amount payable by any person or body by virtue of section 957 or 958 is a debt due from that person or body to the Panel, and is recoverable accordingly.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Miscellaneous and supplementary

960 Panel as party to proceedings

The Panel is capable (despite being an unincorporated body) of—

(a) bringing proceedings under this Chapter in its own name;

(b) bringing or defending any other proceedings in its own name.

961 Exemption from liability in damages

(1) Neither the Panel, nor any person within subsection (2), is to be liable in damages for anything done (or omitted to be done) in, or in connection with, the discharge or purported discharge of the Panel's functions.

(2) A person is within this subsection if—

(a) he is (or is acting as) a member, officer or member of staff of the Panel, or

(b) he is a person authorised under section 947(5).

(3) Subsection (1) does not apply—

(a) if the act or omission is shown to have been in bad faith, or

(b) so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42) (acts of public authorities incompatible with Convention rights).

962 Privilege against self-incrimination

(1) A statement made by a person in response to—

(a) a requirement under section 947(1), or

(b) an order made by the court under section 955 to secure compliance with such a requirement,

may not be used against him in criminal proceedings in which he is charged with an offence to which this subsection applies.

(2) Subsection (1) applies to any offence other than an offence under one of the following provisions (which concern false statements made otherwise than on oath)—

(a) section 5 of the Perjury Act 1911 (c. 6);

(b) section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39);

(c) Article 10 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)).

963 Annual reports

(1) After the end of each financial year the Panel must publish a report.

(2) The report must—

(a) set out how the Panel's functions were discharged in the year in question;

(b) include the Panel's accounts for that year;

(c) mention any matters the Panel considers to be of relevance to the discharge of its functions.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

964 Amendments to Financial Services and Markets Act 2000

(1) The Financial Services and Markets Act 2000 (c. 8) is amended as follows.

(2) Section 143 (power to make rules endorsing the City Code on Takeovers and Mergers etc) is repealed.

F1054(3) . . . . . .

(4) In section 349 (exceptions from restrictions on disclosure of confidential information), after subsection (3) insert—

"(3A) Section 348 does not apply to—

(a) the disclosure by a recipient to which subsection (3B) applies of confidential information disclosed to it by the Authority in reliance on subsection (1);

(b) the disclosure of such information by a person obtaining it directly or indirectly from a recipient to which subsection (3B) applies.

(3B) This subsection applies to—

(a) the Panel on Takeovers and Mergers;

(b) an authority designated as a supervisory authority for the purposes of Article 4.1 of the Takeovers Directive;

(c) any other person or body that exercises public functions, under legislation in an EEA State other than the United Kingdom, that are similar to the Authority's functions or those of the Panel on Takeovers and Mergers.".

F1055(5) . . . . . .

(6) In section 417(1) (definitions), insert at the appropriate place—

""Takeovers Directive" means Directive 2004/25/EC of the European Parliament and of the Council;".

Textual Amendments

F1054 S. 964(3) repealed (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 19** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

F1055 S. 964(5) repealed (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 19** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

965 Power to extend to Isle of Man and Channel Islands

Her Majesty may by Order in Council direct that any of the provisions of this Chapter extend, with such modifications as may be specified in the Order, to the Isle of Man or any of the Channel Islands.

Commencement Information

I331 S. 965 wholly in force at 6.4.2007; s. 965 not in force at Royal Assent, see s. 1300; s. 965 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 965 wholly in force at 6.4.2007 by S.I. 2007/1093 {art. 2(1)(b)}

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CHAPTER 2

IMPEDIMENTS TO TAKEOVERS

Modifications etc. (not altering text)
C1248 Pt. 28 Ch. 2 applied (6.4.2007) by The Companies Acts (Unregistered Companies) Regulations 2007 (S.I. 2007/318), reg. 3, **Sch.** (with reg. 6)

Opting in and opting out

966 Opting in and opting out

(1) A company may by special resolution (an "opting-in resolution") opt in for the purposes of this Chapter if the following **[**[F1056]five**]** conditions are met in relation to the company.

(2) The first condition is that the company has voting shares admitted to trading on a **[**[F1057]UK**]** regulated market.

[[F1058](3) The second condition is that the company's articles of association do not contain any restrictions on the transfer of shares or, if they do contain any such restrictions, provide that they are not to apply to—

(a) transfers to the offeror, or at the offeror's direction to another person, during the offer period, or

(b) transfers to any person at a time during the offer period when the offeror holds shares amounting to not less than 75% in value of all the voting shares in the company.

(3A) The third condition is that the company's articles of association—

(a) do not contain any restrictions on rights to vote at a general meeting of the company, or

(b) if they do contain any such restrictions, provide that they are not to have effect on rights to vote at a general meeting of the company that—

(i) decides whether to take any action which might result in the frustration of the takeover bid, or

(ii) is held at a time when the offeror holds shares amounting to not less than 75% in value of all the voting shares in the company,

unless the restrictions are compensated for by specific pecuniary advantages.

(3B) The fourth condition is that the company's articles of association do not contain any other provision which would be incompatible with the requirements of subsection (3C).

(3C) Those requirements are—

(a) multiple-vote shares are to carry only one vote each at a general meeting of the company that decides whether to take any action which might result in the frustration of the takeover bid,

(b) multiple-vote shares are to carry only one vote each at a general meeting of the company which—

(i) is the first such meeting to be held after the end of the offer period,

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(ii) is held at a time when the offeror holds shares amounting to not less than 75% in value of all the voting shares in the company, and

(iii) is called at the offeror's request under section 969 in order to amend the company's articles of association or to appoint or remove members of the board of directors, and

(c) at a time during the offer period when the offeror holds shares amounting to not less than 75% in value of all the voting shares in the company, shareholders are not to have any extraordinary rights to appoint or remove members of the board of directors.

(3D) The references in subsections (3A)(b) and (3C)(a) to voting at a general meeting of the company that decides whether to take any action which might result in the frustration of the takeover bid includes a reference to voting on a written resolution concerned with that question.

(3E) For the purposes of subsections (3A)(b)(i) and (3C)(a), action which might result in the frustration of the takeover bid is any action of that kind specified in rules under section 943(1) made in accordance with paragraphs 17 or 18 of Schedule 1C.

(3F) The references in subsections (3), (3A) and (3C) to voting shares in the company do not include—

(a) debentures, or

(b) shares that, under the company's articles of association, do not normally carry rights to vote at its general meetings (for example, shares carrying rights to vote that, under those articles, arise only where specified pecuniary advantages are not provided).

(3G) In subsection (3C), "multiple-vote shares" means shares included in a distinct and separate class and carrying more than one vote each.**]**

(4) The **[**F1059fifth**]** condition is that—

(a) no shares conferring special rights in the company are held by—

(i) a minister,

(ii) a nominee of, or any other person acting on behalf of, a minister, or

(iii) a company directly or indirectly controlled by a minister,

and

(b) no such rights are exercisable by or on behalf of a minister under any enactment.

(5) A company may revoke an opting-in resolution by a further special resolution (an "opting-out resolution").

F1060(6) . . . . . .

(7) In subsection (4) "minister" means—

(a) the holder of an office in Her Majesty's Government in the United Kingdom;

(b) the Scottish Ministers;

(c) a Minister within the meaning given by section 7(3) of the Northern Ireland Act 1998 (c. 47);

[F1061(d) the Welsh Ministers;**]**

and for the purposes of that subsection "minister" also includes the Treasury, the Board of Trade **[**F1062and**]**, the Defence Council F1063. . . .

Status: *Point in time view as at 31/12/2020.*
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(8) The Secretary of State may by order subject to negative resolution procedure provide that subsection (4) applies in relation to a specified person or body that exercises functions of a public nature as it applies in relation to a minister.

"Specified" means specified in the order.

Textual Amendments

F1056 Word in s. 966(1) substituted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **7(2)**; 2020 c. 1, Sch. 5 para. 1(1)

F1057 Word in s. 966(2) inserted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **7(3)**; 2020 c. 1, Sch. 5 para. 1(1)

F1058 S. 966(3)-(3G) substituted for s. 966(3) (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **7(4)**; 2020 c. 1, Sch. 5 para. 1(1)

F1059 Word in s. 966(4) substituted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **7(5)**; 2020 c. 1, Sch. 5 para. 1(1)

F1060 S. 966(6) omitted (31.12.2020) by virtue of The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **7(6)**; 2020 c. 1, Sch. 5 para. 1(1)

F1061 S. 966(7)(d) inserted (2.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 142(2)**

F1062 Word in s. 966(7) inserted (2.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 142(3)**

F1063 Words in s. 966(7) omitted (2.5.2007) by virtue of The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 142(2)**

Modifications etc. (not altering text)

C1249 Ss. 966-973 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(1)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I332 S. 966 wholly in force at 6.4.2007; s. 966 not in force at Royal Assent, see s. 1300; s. 966 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 966 in force at 6.4.2007 by S.I. 2007/1093, **art. 2(1)(b)** (with art. 11(1))

967 Further provision about opting-in and opting-out resolutions

(1) An opting-in resolution or an opting-out resolution must specify the date from which it is to have effect (the "effective date").

(2) The effective date of an opting-in resolution may not be earlier than the date on which the resolution is passed.

(3) The **[**F1064second, third, fourth and fifth**]** conditions in section 966 must be met at the time when an opting-in resolution is passed, but the first one does not need to be met until the effective date.

(4) An opting-in resolution passed before the time when voting shares of the company are admitted to trading on a **[**F1065UK**]** regulated market complies with the requirement in subsection (1) if, instead of specifying a particular date, it provides for the resolution to have effect from that time.

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(5) An opting-in resolution passed before the commencement of this section complies with the requirement in subsection (1) if, instead of specifying a particular date, it provides for the resolution to have effect from that commencement.

(6) The effective date of an opting-out resolution may not be earlier than the first anniversary of the date on which a copy of the opting-in resolution was forwarded to the registrar.

(7) Where a company has passed an opting-in resolution, any alteration of its articles of association that would prevent the **[**F1066second, third or fourth condition**]** in section 966 from being met is of no effect until the effective date of an opting-out resolution passed by the company.

Textual Amendments

F1064 Words in s. 967(3) substituted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **8(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1065 Word in s. 967(4) inserted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **8(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F1066 Words in s. 967(7) substituted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **8(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C1250 Ss. 966-973 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(1)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Consequences of opting in

968 Effect on contractual restrictions

(1) The following provisions have effect where a takeover bid is made for an opted-in company.

(2) An agreement to which this section applies is invalid in so far as it places any restriction—

(a) on the transfer to the offeror, or at his direction to another person, of shares in the company during the offer period;

(b) on the transfer to any person of shares in the company at a time during the offer period when the offeror holds shares amounting to not less than 75% in value of all the voting shares in the company;

(c) on rights to vote at a general meeting of the company that decides whether to take any action which might result in the frustration of the bid;

(d) on rights to vote at a general meeting of the company that—

(i) is the first such meeting to be held after the end of the offer period, and

(ii) is held at a time when the offeror holds shares amounting to not less than 75% in value of all the voting shares in the company.

(3) This section applies to an agreement—

(a) entered into between a person holding shares in the company and another such person on or after 21st April 2004, or

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(b) entered into at any time between such a person and the company,

and it applies to such an agreement even if the law applicable to the agreement (apart from this section) is not the law of a part of the United Kingdom.

(4) The reference in subsection (2)(c) to rights to vote at a general meeting of the company that decides whether to take any action which might result in the frustration of the bid includes a reference to rights to vote on a written resolution concerned with that question.

(5) For the purposes of subsection (2)(c), action which might result in the frustration of a bid is any action of that kind specified in rules under section 943(1) **[**F1067made in accordance with paragraph 17 or 18 of Schedule 1C**]**.

(6) If a person suffers loss as a result of any act or omission that would (but for this section) be a breach of an agreement to which this section applies, he is entitled to compensation, of such amount as the court considers just and equitable, from any person who would (but for this section) be liable to him for committing or inducing the breach.

(7) In subsection (6) "the court" means the High Court or, in Scotland, the Court of Session.

(8) A reference in this section to voting shares in the company does not include—

(a) debentures, or

(b) shares that, under the company's articles of association, do not normally carry rights to vote at its general meetings (for example, shares carrying rights to vote that, under those articles, arise only where specified pecuniary advantages are not provided).

Textual Amendments

F1067 Words in s. 968(5) substituted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **9**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C1251 Ss. 966-973 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(1)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I333 S. 968 wholly in force at 6.4.2007; s. 968 not in force at Royal Assent see s. 1300; s. 968 in force at 6.4.2007 by S.I. 2007/1093, **art. 2(1)(b)** (with art. 11(1) and subject to transitional adaptations in Sch. 1 para. 4)

969 Power of offeror to require general meeting to be called

(1) Where a takeover bid is made for an opted-in company, the offeror may by making a request to the directors of the company require them to call a general meeting of the company if, at the date at which the request is made, he holds shares amounting to not less than 75% in value of all the voting shares in the company.

(2) The reference in subsection (1) to voting shares in the company does not include—

(a) debentures, or

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(b) shares that, under the company's articles of association, do not normally carry rights to vote at its general meetings (for example, shares carrying rights to vote that, under those articles, arise only where specified pecuniary advantages are not provided).

(3) Sections 303 to 305 (members' power to require general meetings to be called) apply as they would do if subsection (1) above were substituted for subsections (1) to (3) of section 303, and with any other necessary modifications.

Modifications etc. (not altering text)

C1252 Ss. 966-973 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(1)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Supplementary

970 Communication of decisions

(1) A company that has passed an opting-in resolution or an opting-out resolution must notify—

(a) the Panel, [F1068]...

[F1068](b) . . . . . .

(2) Notification must be given within 15 days after the resolution is passed [F1069]....

(3) If a company fails to comply with this section, an offence is committed by—

(a) the company, and

(b) every officer of it who is in default.

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

Textual Amendments

F1068 S. 970(1)(b) and word omitted (31.12.2020) by virtue of The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **10(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1069 Words in s. 970(2) omitted (31.12.2020) by virtue of The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **10(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C1253 Ss. 966-973 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(1)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

971 Interpretation of this Chapter

(1) In this Chapter—

[F1070]...

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[[F1071]"offeror", in relation to a takeover bid, means the person making the bid;**]**

"offer period", in relation to a takeover bid, means the time allowed for acceptance of the bid by—

(a) rules under section 943(1) **[**[F1072]made in accordance with paragraph 13 of Schedule 1C;**]**

"opted-in company" means a company in relation to which—

(a) an opting-in resolution has effect, and

(b) the conditions in section 966(2) and (4) continue to be met;

"opting-in resolution" has the meaning given by section 966(1);

"opting-out resolution" has the meaning given by section 966(5);

[[F1073]"takeover bid" has the meaning given by paragraph 20(1) of Schedule 1C;**]**

[F1074]...

"voting rights" means rights to vote at general meetings of the company in question, including rights that arise only in certain circumstances;

"voting shares" means shares carrying voting rights.

(2) For the purposes of this Chapter—

(a) securities of a company are treated as shares in the company if they are convertible into or entitle the holder to subscribe for such shares;

(b) debentures issued by a company are treated as shares in the company if they carry voting rights.

Textual Amendments

F1070 Words in s. 971(1) omitted (31.12.2020) by virtue of The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **11(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1071 Words in s. 971(1) inserted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **11(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F1072 Words in s. 971(1) substituted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **11(d)**; 2020 c. 1, Sch. 5 para. 1(1)

F1073 Words in s. 971(1) inserted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **11(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F1074 Words in s. 971(1) omitted (31.12.2020) by virtue of The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **11(e)**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C1254 Ss. 966-973 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(1)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

972 Transitory provision

(1) Where a takeover bid is made for an opted-in company, section 368 of the Companies Act 1985 (c. 6) (extraordinary general meeting on members' requisition) and section 378 of that Act (extraordinary and special resolutions) have effect as follows until their repeal by this Act.

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(2) Section 368 has effect as if a members' requisition included a requisition of a person who—

(a) is the offeror in relation to the takeover bid, and

(b) holds at the date of the deposit of the requisition shares amounting to not less than 75% in value of all the voting shares in the company.

(3) In relation to a general meeting of the company that—

(a) is the first such meeting to be held after the end of the offer period, and

(b) is held at a time when the offeror holds shares amounting to not less than 75% in value of all the voting shares in the company,

section 378(2) (meaning of "special resolution") has effect as if "14 days' notice" were substituted for "21 days' notice".

(4) A reference in this section to voting shares in the company does not include—

(a) debentures, or

(b) shares that, under the company's articles of association, do not normally carry rights to vote at its general meetings (for example, shares carrying rights to vote that, under those articles, arise only where specified pecuniary advantages are not provided).

Modifications etc. (not altering text)

C1255 Ss. 966-973 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(1)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

973 Power to extend to Isle of Man and Channel Islands

Her Majesty may by Order in Council direct that any of the provisions of this Chapter extend, with such modifications as may be specified in the Order, to the Isle of Man or any of the Channel Islands.

Modifications etc. (not altering text)

C1256 Ss. 966-973 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(1)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I334 S. 973 wholly in force at 6.4.2007; s. 973 not in force at Royal Assent, see s. 1300; s. 973 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 973 in force at 6.4.2007 by S.I. 2007/1093, **art. 2(1)(b)** (with art. 11(1))

Status: *Point in time view as at 31/12/2020.*
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CHAPTER 3

"SQUEEZE-OUT" AND "SELL-OUT"

Modifications etc. (not altering text)
C1257 Pt. 28 Ch. 3 applied (6.4.2007) by The Companies Acts (Unregistered Companies) Regulations 2007 (S.I. 2007/318), reg. 3, **Sch.** (with reg. 6)

Takeover offers

974 Meaning of "takeover offer"

(1) For the purposes of this Chapter an offer to acquire shares in a company is a "takeover offer" if the following two conditions are satisfied in relation to the offer.

(2) The first condition is that it is an offer to acquire—

(a) all the shares in a company, or

(b) where there is more than one class of shares in a company, all the shares of one or more classes,

other than shares that at the date of the offer are already held by the offeror.

Section 975 contains provision supplementing this subsection.

(3) The second condition is that the terms of the offer are the same—

(a) in relation to all the shares to which the offer relates, or

(b) where the shares to which the offer relates include shares of different classes, in relation to all the shares of each class.

Section 976 contains provision treating this condition as satisfied in certain circumstances.

(4) In subsections (1) to (3) "shares" means shares, other than relevant treasury shares, that have been allotted on the date of the offer (but see subsection (5)).

(5) A takeover offer may include among the shares to which it relates—

(a) all or any shares that are allotted after the date of the offer but before a specified date;

(b) all or any relevant treasury shares that cease to be held as treasury shares before a specified date;

(c) all or any other relevant treasury shares.

(6) In this section—

"relevant treasury shares" means shares that—

(a) are held by the company as treasury shares on the date of the offer, or

(b) become shares held by the company as treasury shares after that date but before a specified date;

"specified date" means a date specified in or determined in accordance with the terms of the offer.

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(7) Where the terms of an offer make provision for their revision and for acceptances on the previous terms to be treated as acceptances on the revised terms, then, if the terms of the offer are revised in accordance with that provision—

(a) the revision is not to be regarded for the purposes of this Chapter as the making of a fresh offer, and

(b) references in this Chapter to the date of the offer are accordingly to be read as references to the date of the original offer.

Modifications etc. (not altering text)

C1258 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

975 Shares already held by the offeror etc

(1) The reference in section 974(2) to shares already held by the offeror includes a reference to shares that he has contracted to acquire, whether unconditionally or subject to conditions being met.

This is subject to subsection (2).

(2) The reference in section 974(2) to shares already held by the offeror does not include a reference to shares that are the subject of a contract—

(a) intended to secure that the holder of the shares will accept the offer when it is made, and

(b) entered into—

(i) by deed and for no consideration,

(ii) for consideration of negligible value, or

(iii) for consideration consisting of a promise by the offeror to make the offer.

(3) In relation to Scotland, this section applies as if the words "by deed and" in subsection (2)(b)(i) were omitted.

(4) The condition in section 974(2) is treated as satisfied where—

(a) the offer does not extend to shares that associates of the offeror hold or have contracted to acquire (whether unconditionally or subject to conditions being met), and

(b) the condition would be satisfied if the offer did extend to those shares.

(For further provision about such shares, see section 977(2)).

Modifications etc. (not altering text)

C1259 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Status: *Point in time view as at 31/12/2020.*
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976 Cases where offer treated as being on same terms

(1) The condition in section 974(3) (terms of offer to be the same for all shares or all shares of particular classes) is treated as satisfied where subsection (2) or (3) below applies.

(2) This subsection applies where—

(a) shares carry an entitlement to a particular dividend which other shares of the same class, by reason of being allotted later, do not carry,

(b) there is a difference in the value of consideration offered for the shares allotted earlier as against that offered for those allotted later,

(c) that difference merely reflects the difference in entitlement to the dividend, and

(d) the condition in section 974(3) would be satisfied but for that difference.

(3) This subsection applies where—

(a) the law of a country or territory outside the United Kingdom—

(i) precludes an offer of consideration in the form, or any of the forms, specified in the terms of the offer ("the specified form"), or

(ii) precludes it except after compliance by the offeror with conditions with which he is unable to comply or which he regards as unduly onerous,

(b) the persons to whom an offer of consideration in the specified form is precluded are able to receive consideration in another form that is of substantially equivalent value, and

(c) the condition in section 974(3) would be satisfied but for the fact that an offer of consideration in the specified form to those persons is precluded.

Modifications etc. (not altering text)

C1260 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

977 Shares to which an offer relates

(1) Where a takeover offer is made and, during the period beginning with the date of the offer and ending when the offer can no longer be accepted, the offeror—

(a) acquires or unconditionally contracts to acquire any of the shares to which the offer relates, but

(b) does not do so by virtue of acceptances of the offer,

those shares are treated for the purposes of this Chapter as excluded from those to which the offer relates.

(2) For the purposes of this Chapter shares that an associate of the offeror holds or has contracted to acquire, whether at the date of the offer or subsequently, are not treated as shares to which the offer relates, even if the offer extends to such shares.

In this subsection "contracted" means contracted unconditionally or subject to conditions being met.

(3) This section is subject to section 979(8) and (9).

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C1261 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

978 Effect of impossibility etc of communicating or accepting offer

(1) Where there are holders of shares in a company to whom an offer to acquire shares in the company is not communicated, that does not prevent the offer from being a takeover offer for the purposes of this Chapter if—

(a) those shareholders have no registered address in the United Kingdom,

(b) the offer was not communicated to those shareholders in order not to contravene the law of a country or territory outside the United Kingdom, and

(c) either—

(i) the offer is published in the Gazette, or

(ii) the offer can be inspected, or a copy of it obtained, at a place in **[**[F1075]the United Kingdom**]** or on a website, and a notice is published in the Gazette specifying the address of that place or website.

(2) Where an offer is made to acquire shares in a company and there are persons for whom, by reason of the law of a country or territory outside the United Kingdom, it is impossible to accept the offer, or more difficult to do so, that does not prevent the offer from being a takeover offer for the purposes of this Chapter.

(3) It is not to be inferred—

(a) that an offer which is not communicated to every holder of shares in the company cannot be a takeover offer for the purposes of this Chapter unless the requirements of paragraphs (a) to (c) of subsection (1) are met, or

(b) that an offer which is impossible, or more difficult, for certain persons to accept cannot be a takeover offer for those purposes unless the reason for the impossibility or difficulty is the one mentioned in subsection (2).

Textual Amendments

F1075 Words in s. 978(1)(c)(ii) substituted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **12**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C1262 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

"Squeeze-out"

979 Right of offeror to buy out minority shareholder

(1) Subsection (2) applies in a case where a takeover offer does not relate to shares of different classes.

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(2) If the offeror has, by virtue of acceptances of the offer, acquired or unconditionally contracted to acquire—

(a) not less than 90% in value of the shares to which the offer relates, and

(b) in a case where the shares to which the offer relates are voting shares, not less than 90% of the voting rights carried by those shares,

he may give notice to the holder of any shares to which the offer relates which the offeror has not acquired or unconditionally contracted to acquire that he desires to acquire those shares.

(3) Subsection (4) applies in a case where a takeover offer relates to shares of different classes.

(4) If the offeror has, by virtue of acceptances of the offer, acquired or unconditionally contracted to acquire—

(a) not less than 90% in value of the shares of any class to which the offer relates, and

(b) in a case where the shares of that class are voting shares, not less than 90% of the voting rights carried by those shares,

he may give notice to the holder of any shares of that class to which the offer relates which the offeror has not acquired or unconditionally contracted to acquire that he desires to acquire those shares.

(5) In the case of a takeover offer which includes among the shares to which it relates—

(a) shares that are allotted after the date of the offer, or

(b) relevant treasury shares (within the meaning of section 974) that cease to be held as treasury shares after the date of the offer,

the offeror's entitlement to give a notice under subsection (2) or (4) on any particular date shall be determined as if the shares to which the offer relates did not include any allotted, or ceasing to be held as treasury shares, on or after that date.

(6) Subsection (7) applies where—

(a) the requirements for the giving of a notice under subsection (2) or (4) are satisfied, and

(b) there are shares in the company which the offeror, or an associate of his, has contracted to acquire subject to conditions being met, and in relation to which the contract has not become unconditional.

(7) The offeror's entitlement to give a notice under subsection (2) or (4) shall be determined as if—

(a) the shares to which the offer relates included shares falling within paragraph (b) of subsection (6), and

(b) in relation to shares falling within that paragraph, the words "by virtue of acceptances of the offer" in subsection (2) or (4) were omitted.

(8) Where—

(a) a takeover offer is made,

(b) during the period beginning with the date of the offer and ending when the offer can no longer be accepted, the offeror—

(i) acquires or unconditionally contracts to acquire any of the shares to which the offer relates, but

(ii) does not do so by virtue of acceptances of the offer, and

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(c) subsection (10) applies,

then for the purposes of this section those shares are not excluded by section 977(1) from those to which the offer relates, and the offeror is treated as having acquired or contracted to acquire them by virtue of acceptances of the offer.

(9) Where—

(a) a takeover offer is made,

(b) during the period beginning with the date of the offer and ending when the offer can no longer be accepted, an associate of the offeror acquires or unconditionally contracts to acquire any of the shares to which the offer relates, and

(c) subsection (10) applies,

then for the purposes of this section those shares are not excluded by section 977(2) from those to which the offer relates.

(10) This subsection applies if—

(a) at the time the shares are acquired or contracted to be acquired as mentioned in subsection (8) or (9) (as the case may be), the value of the consideration for which they are acquired or contracted to be acquired ("the acquisition consideration") does not exceed the value of the consideration specified in the terms of the offer, or

(b) those terms are subsequently revised so that when the revision is announced the value of the acquisition consideration, at the time mentioned in paragraph (a), no longer exceeds the value of the consideration specified in those terms.

Modifications etc. (not altering text)

C1263 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

980 Further provision about notices given under section 979

(1) A notice under section 979 must be given in the prescribed manner.

(2) No notice may be given under section 979(2) or (4) after the end of—

(a) the period of three months beginning with the day after the last day on which the offer can be accepted, or

(b) the period of six months beginning with the date of the offer, where that period ends earlier and the offer is one to which subsection (3) below applies.

(3) This subsection applies to an offer if the time allowed for acceptance of the offer is not governed by rules under section 943(1) **[**[F1076]made in accordance with paragraph 13 or 14 of Schedule 1C**]**.

(4) At the time when the offeror first gives a notice under section 979 in relation to an offer, he must send to the company—

(a) a copy of the notice, and

(b) a statutory declaration by him in the prescribed form, stating that the conditions for the giving of the notice are satisfied.

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(5) Where the offeror is a company (whether or not a company within the meaning of this Act) the statutory declaration must be signed by a director.

(6) A person commits an offence if—

(a) he fails to send a copy of a notice or a statutory declaration as required by subsection (4), or

(b) he makes such a declaration for the purposes of that subsection knowing it to be false or without having reasonable grounds for believing it to be true.

(7) It is a defence for a person charged with an offence for failing to send a copy of a notice as required by subsection (4) to prove that he took reasonable steps for securing compliance with that subsection.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both) and, for continued contravention, a daily default fine not exceeding **[**F1077one-fiftieth of the statutory maximum**][**F1077one-fiftieth of the greater of £5,000 or the amount corresponding to level 4 on the standard scale for summary offences**]**;

(ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum (or both) and, for continued contravention, a daily default fine not exceeding one-fiftieth of the statutory maximum.

Textual Amendments

F1076 Words in s. 980(3) substituted (31.12.2020) by The Takeovers (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/217), regs. 1, **13**; 2020 c. 1, Sch. 5 para. 1(1)

F1077 Words in s. 980(8)(b)(i) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(20)** (with reg. 5(1))

Modifications etc. (not altering text)

C1264 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I335 S. 980 wholly in force at 6.4.2007; s. 980 not in force at Royal Assent, see s. 1300; s. 980 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 980 in force at 6.4.2007 by S.I. 2007/1093, **art. 2(1)(b)** (with art. 11(1))

981 Effect of notice under section 979

(1) Subject to section 986 (applications to the court), this section applies where the offeror gives a shareholder a notice under section 979.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The offeror is entitled and bound to acquire the shares to which the notice relates on the terms of the offer.

(3) Where the terms of an offer are such as to give the shareholder a choice of consideration, the notice must give particulars of the choice and state—

(a) that the shareholder may, within six weeks from the date of the notice, indicate his choice by a written communication sent to the offeror at an address specified in the notice, and

(b) which consideration specified in the offer will apply if he does not indicate a choice.

The reference in subsection (2) to the terms of the offer is to be read accordingly.

(4) Subsection (3) applies whether or not any time-limit or other conditions applicable to the choice under the terms of the offer can still be complied with.

(5) If the consideration offered to or (as the case may be) chosen by the shareholder—

(a) is not cash and the offeror is no longer able to provide it, or

(b) was to have been provided by a third party who is no longer bound or able to provide it,

the consideration is to be taken to consist of an amount of cash, payable by the offeror, which at the date of the notice is equivalent to the consideration offered or (as the case may be) chosen.

(6) At the end of six weeks from the date of the notice the offeror must immediately—

(a) send a copy of the notice to the company, and

(b) pay or transfer to the company the consideration for the shares to which the notice relates.

Where the consideration consists of shares or securities to be allotted by the offeror, the reference in paragraph (b) to the transfer of the consideration is to be read as a reference to the allotment of the shares or securities to the company.

(7) If the shares to which the notice relates are registered, the copy of the notice sent to the company under subsection (6)(a) must be accompanied by an instrument of transfer executed on behalf of the holder of the shares by a person appointed by the offeror.

On receipt of that instrument the company must register the offeror as the holder of those shares.

(8) If the shares to which the notice relates are transferable by the delivery of warrants or other instruments, the copy of the notice sent to the company under subsection (6)(a) must be accompanied by a statement to that effect.

On receipt of that statement the company must issue the offeror with warrants or other instruments in respect of the shares, and those already in issue in respect of the shares become void.

(9) The company must hold any money or other consideration received by it under subsection (6)(b) on trust for the person who, before the offeror acquired them, was entitled to the shares in respect of which the money or other consideration was received.

Section 982 contains further provision about how the company should deal with such money or other consideration.

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Modifications etc. (not altering text)

C1265 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

982 Further provision about consideration held on trust under section 981(9)

(1) This section applies where an offeror pays or transfers consideration to the company under section 981(6).

(2) The company must pay into a separate bank account that complies with subsection (3) —

(a) any money it receives under paragraph (b) of section 981(6), and

(b) any dividend or other sum accruing from any other consideration it receives under that paragraph.

(3) A bank account complies with this subsection if the balance on the account—

(a) bears interest at an appropriate rate, and

(b) can be withdrawn by such notice (if any) as is appropriate.

(4) If—

(a) the person entitled to the consideration held on trust by virtue of section 981(9) cannot be found, and

(b) subsection (5) applies,

the consideration (together with any interest, dividend or other benefit that has accrued from it) must be paid into court.

(5) This subsection applies where—

(a) reasonable enquiries have been made at reasonable intervals to find the person, and

(b) twelve years have elapsed since the consideration was received, or the company is wound up.

(6) In relation to a company registered in Scotland, subsections (7) and (8) apply instead of subsection (4).

(7) If the person entitled to the consideration held on trust by virtue of section 981(9) cannot be found and subsection (5) applies—

(a) the trust terminates,

(b) the company or (if the company is wound up) the liquidator must sell any consideration other than cash and any benefit other than cash that has accrued from the consideration, and

(c) a sum representing—

(i) the consideration so far as it is cash,

(ii) the proceeds of any sale under paragraph (b), and

(iii) any interest, dividend or other benefit that has accrued from the consideration,

must be deposited in the name of the Accountant of Court in a separate bank account complying with subsection (3) and the receipt for the deposit must be transmitted to the Accountant of Court.

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(8) Section **[**F1078150 of the Bankruptcy (Scotland) Act 2016**]** (so far as consistent with this Act) applies (with any necessary modifications) to sums deposited under subsection (7) as it applies to sums deposited under section **[**F1079148(3)**]** of that Act.

(9) The expenses of any such enquiries as are mentioned in subsection (5) may be paid out of the money or other property held on trust for the person to whom the enquiry relates.

Textual Amendments

F1078 Words in s. 982(8) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 29(6)(a)**

F1079 Word in s. 982(8) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 29(6)(b)**

Modifications etc. (not altering text)

C1266 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

"Sell-out"

983 Right of minority shareholder to be bought out by offeror

(1) Subsections (2) and (3) apply in a case where a takeover offer relates to all the shares in a company.

For this purpose a takeover offer relates to all the shares in a company if it is an offer to acquire all the shares in the company within the meaning of section 974.

(2) The holder of any voting shares to which the offer relates who has not accepted the offer may require the offeror to acquire those shares if, at any time before the end of the period within which the offer can be accepted—

(a) the offeror has by virtue of acceptances of the offer acquired or unconditionally contracted to acquire some (but not all) of the shares to which the offer relates, and

(b) those shares, with or without any other shares in the company which he has acquired or contracted to acquire (whether unconditionally or subject to conditions being met)—

(i) amount to not less than 90% in value of all the voting shares in the company (or would do so but for section 990(1)), and

(ii) carry not less than 90% of the voting rights in the company (or would do so but for section 990(1)).

(3) The holder of any non-voting shares to which the offer relates who has not accepted the offer may require the offeror to acquire those shares if, at any time before the end of the period within which the offer can be accepted—

(a) the offeror has by virtue of acceptances of the offer acquired or unconditionally contracted to acquire some (but not all) of the shares to which the offer relates, and

(b) those shares, with or without any other shares in the company which he has acquired or contracted to acquire (whether unconditionally or subject to

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conditions being met), amount to not less than 90% in value of all the shares in the company (or would do so but for section 990(1)).

(4) If a takeover offer relates to shares of one or more classes and at any time before the end of the period within which the offer can be accepted—

(a) the offeror has by virtue of acceptances of the offer acquired or unconditionally contracted to acquire some (but not all) of the shares of any class to which the offer relates, and

(b) those shares, with or without any other shares of that class which he has acquired or contracted to acquire (whether unconditionally or subject to conditions being met)—

(i) amount to not less than 90% in value of all the shares of that class, and

(ii) in a case where the shares of that class are voting shares, carry not less than 90% of the voting rights carried by the shares of that class,

the holder of any shares of that class to which the offer relates who has not accepted the offer may require the offeror to acquire those shares.

(5) For the purposes of subsections (2) to (4), in calculating 90% of the value of any shares, shares held by the company as treasury shares are to be treated as having been acquired by the offeror.

(6) Subsection (7) applies where—

(a) a shareholder exercises rights conferred on him by subsection (2), (3) or (4),

(b) at the time when he does so, there are shares in the company which the offeror has contracted to acquire subject to conditions being met, and in relation to which the contract has not become unconditional, and

(c) the requirement imposed by subsection (2)(b), (3)(b) or (4)(b) (as the case may be) would not be satisfied if those shares were not taken into account.

(7) The shareholder is treated for the purposes of section 985 as not having exercised his rights under this section unless the requirement imposed by paragraph (b) of subsection (2), (3) or (4) (as the case may be) would be satisfied if—

(a) the reference in that paragraph to other shares in the company which the offeror has contracted to acquire unconditionally or subject to conditions being met were a reference to such shares which he has unconditionally contracted to acquire, and

(b) the reference in that subsection to the period within which the offer can be accepted were a reference to the period referred to in section 984(2).

(8) A reference in subsection (2)(b), (3)(b), (4)(b), (6) or (7) to shares which the offeror has acquired or contracted to acquire includes a reference to shares which an associate of his has acquired or contracted to acquire.

Modifications etc. (not altering text)

C1267 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

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984 Further provision about rights conferred by section 983

(1) Rights conferred on a shareholder by subsection (2), (3) or (4) of section 983 are exercisable by a written communication addressed to the offeror.

(2) Rights conferred on a shareholder by subsection (2), (3) or (4) of that section are not exercisable after the end of the period of three months from—

(a) the end of the period within which the offer can be accepted, or

(b) if later, the date of the notice that must be given under subsection (3) below.

(3) Within one month of the time specified in subsection (2), (3) or (4) (as the case may be) of that section, the offeror must give any shareholder who has not accepted the offer notice in the prescribed manner of—

(a) the rights that are exercisable by the shareholder under that subsection, and

(b) the period within which the rights are exercisable.

If the notice is given before the end of the period within which the offer can be accepted, it must state that the offer is still open for acceptance.

(4) Subsection (3) does not apply if the offeror has given the shareholder a notice in respect of the shares in question under section 979.

(5) An offeror who fails to comply with subsection (3) commits an offence.

If the offeror is a company, every officer of that company who is in default or to whose neglect the failure is attributable also commits an offence.

(6) If an offeror other than a company is charged with an offence for failing to comply with subsection (3), it is a defence for him to prove that he took all reasonable steps for securing compliance with that subsection.

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

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

(b) on summary conviction, to a fine not exceeding the statutory maximum and, for continued contravention, a daily default fine not exceeding **[**F1080one-fiftieth of the statutory maximum**][**F1080one-fiftieth of the greater of £5,000 or the amount corresponding to level 4 on the standard scale for summary offences**]**.

Textual Amendments

F1080 Words in s. 984(7)(b) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(21)** (with reg. 5(1))

Modifications etc. (not altering text)

C1268 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I336 S. 984 wholly in force at 6.4.2007; s. 1043 not in force at Royal Assent, see s. 1300; s. 984 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)); s. 984 wholly in force at 6.4.2007 by S.I. 2007/1093 {art. 2(1)(b)}

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

985 Effect of requirement under section 983

(1) Subject to section 986, this section applies where a shareholder exercises his rights under section 983 in respect of any shares held by him.

(2) The offeror is entitled and bound to acquire those shares on the terms of the offer or on such other terms as may be agreed.

(3) Where the terms of an offer are such as to give the shareholder a choice of consideration—

(a) the shareholder may indicate his choice when requiring the offeror to acquire the shares, and

(b) the notice given to the shareholder under section 984(3)—

(i) must give particulars of the choice and of the rights conferred by this subsection, and

(ii) may state which consideration specified in the offer will apply if he does not indicate a choice.

The reference in subsection (2) to the terms of the offer is to be read accordingly.

(4) Subsection (3) applies whether or not any time-limit or other conditions applicable to the choice under the terms of the offer can still be complied with.

(5) If the consideration offered to or (as the case may be) chosen by the shareholder—

(a) is not cash and the offeror is no longer able to provide it, or

(b) was to have been provided by a third party who is no longer bound or able to provide it,

the consideration is to be taken to consist of an amount of cash, payable by the offeror, which at the date when the shareholder requires the offeror to acquire the shares is equivalent to the consideration offered or (as the case may be) chosen.

Modifications etc. (not altering text)

C1269 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Supplementary

986 Applications to the court

(1) Where a notice is given under section 979 to a shareholder the court may, on an application made by him, order—

(a) that the offeror is not entitled and bound to acquire the shares to which the notice relates, or

(b) that the terms on which the offeror is entitled and bound to acquire the shares shall be such as the court thinks fit.

(2) An application under subsection (1) must be made within six weeks from the date on which the notice referred to in that subsection was given.

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If an application to the court under subsection (1) is pending at the end of that period, section 981(6) does not have effect until the application has been disposed of.

(3) Where a shareholder exercises his rights under section 983 in respect of any shares held by him, the court may, on an application made by him or the offeror, order that the terms on which the offeror is entitled and bound to acquire the shares shall be such as the court thinks fit.

(4) On an application under subsection (1) or (3)—

(a) the court may not require consideration of a higher value than that specified in the terms of the offer ("the offer value") to be given for the shares to which the application relates unless the holder of the shares shows that the offer value would be unfair;

(b) the court may not require consideration of a lower value than the offer value to be given for the shares.

(5) No order for costs or expenses may be made against a shareholder making an application under subsection (1) or (3) unless the court considers that—

(a) the application was unnecessary, improper or vexatious,

(b) there has been unreasonable delay in making the application, or

(c) there has been unreasonable conduct on the shareholder's part in conducting the proceedings on the application.

(6) A shareholder who has made an application under subsection (1) or (3) must give notice of the application to the offeror.

(7) An offeror who is given notice of an application under subsection (1) or (3) must give a copy of the notice to—

(a) any person (other than the applicant) to whom a notice has been given under section 979;

(b) any person who has exercised his rights under section 983.

(8) An offeror who makes an application under subsection (3) must give notice of the application to—

(a) any person to whom a notice has been given under section 979;

(b) any person who has exercised his rights under section 983.

(9) Where a takeover offer has not been accepted to the extent necessary for entitling the offeror to give notices under subsection (2) or (4) of section 979 the court may, on an application made by him, make an order authorising him to give notices under that subsection if it is satisfied that—

(a) the offeror has after reasonable enquiry been unable to trace one or more of the persons holding shares to which the offer relates,

(b) the requirements of that subsection would have been met if the person, or all the persons, mentioned in paragraph (a) above had accepted the offer, and

(c) the consideration offered is fair and reasonable.

This is subject to subsection (10).

(10) The court may not make an order under subsection (9) unless it considers that it is just and equitable to do so having regard, in particular, to the number of shareholders who have been traced but who have not accepted the offer.

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Modifications etc. (not altering text)

C1270 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

987 Joint offers

(1) In the case of a takeover offer made by two or more persons jointly, this Chapter has effect as follows.

(2) The conditions for the exercise of the rights conferred by section 979 are satisfied—

(a) in the case of acquisitions by virtue of acceptances of the offer, by the joint offerors acquiring or unconditionally contracting to acquire the necessary shares jointly;

(b) in other cases, by the joint offerors acquiring or unconditionally contracting to acquire the necessary shares either jointly or separately.

(3) The conditions for the exercise of the rights conferred by section 983 are satisfied—

(a) in the case of acquisitions by virtue of acceptances of the offer, by the joint offerors acquiring or unconditionally contracting to acquire the necessary shares jointly;

(b) in other cases, by the joint offerors acquiring or contracting (whether unconditionally or subject to conditions being met) to acquire the necessary shares either jointly or separately.

(4) Subject to the following provisions, the rights and obligations of the offeror under sections 979 to 985 are respectively joint rights and joint and several obligations of the joint offerors.

(5) A provision of sections 979 to 986 that requires or authorises a notice or other document to be given or sent by or to the joint offerors is complied with if the notice or document is given or sent by or to any of them (but see subsection (6)).

(6) The statutory declaration required by section 980(4) must be made by all of the joint offerors and, where one or more of them is a company, signed by a director of that company.

(7) In sections 974 to 977, 979(9), 981(6), 983(8) and 988 references to the offeror are to be read as references to the joint offerors or any of them.

(8) In section 981(7) and (8) references to the offeror are to be read as references to the joint offerors or such of them as they may determine.

(9) In sections 981(5)(a) and 985(5)(a) references to the offeror being no longer able to provide the relevant consideration are to be read as references to none of the joint offerors being able to do so.

(10) In section 986 references to the offeror are to be read as references to the joint offerors, except that—

(a) an application under subsection (3) or (9) may be made by any of them, and

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(b) the reference in subsection (9)(a) to the offeror having been unable to trace one or more of the persons holding shares is to be read as a reference to none of the offerors having been able to do so.

Modifications etc. (not altering text)

C1271 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Interpretation

988 Associates

(1) In this Chapter "associate", in relation to an offeror, means—

(a) a nominee of the offeror,

(b) a holding company, subsidiary or fellow subsidiary of the offeror or a nominee of such a holding company, subsidiary or fellow subsidiary,

(c) a body corporate in which the offeror is substantially interested,

(d) a person who is, or is a nominee of, a party to a share acquisition agreement with the offeror, or

(e) (where the offeror is an individual) his spouse or civil partner and any minor child or step-child of his.

(2) For the purposes of subsection (1)(b) a company is a fellow subsidiary of another body corporate if both are subsidiaries of the same body corporate but neither is a subsidiary of the other.

(3) For the purposes of subsection (1)(c) an offeror has a substantial interest in a body corporate if—

(a) the body or its directors are accustomed to act in accordance with his directions or instructions, or

(b) he is entitled to exercise or control the exercise of one-third or more of the voting power at general meetings of the body.

Subsections (2) and (3) of section 823 (which contain provision about when a person is treated as entitled to exercise or control the exercise of voting power) apply for the purposes of this subsection as they apply for the purposes of that section.

(4) For the purposes of subsection (1)(d) an agreement is a share acquisition agreement if—

(a) it is an agreement for the acquisition of, or of an interest in, shares to which the offer relates,

(b) it includes provisions imposing obligations or restrictions on any one or more of the parties to it with respect to their use, retention or disposal of such shares, or their interests in such shares, acquired in pursuance of the agreement (whether or not together with any other shares to which the offer relates or any other interests of theirs in such shares), and

(c) it is not an excluded agreement (see subsection (5)).

(5) An agreement is an "excluded agreement"—

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(a) if it is not legally binding, unless it involves mutuality in the undertakings, expectations or understandings of the parties to it, or

(b) if it is an agreement to underwrite or sub-underwrite an offer of shares in a company, provided the agreement is confined to that purpose and any matters incidental to it.

(6) The reference in subsection (4)(b) to the use of interests in shares is to the exercise of any rights or of any control or influence arising from those interests (including the right to enter into an agreement for the exercise, or for control of the exercise, of any of those rights by another person).

(7) In this section—

(a) "agreement" includes any agreement or arrangement;

(b) references to provisions of an agreement include—

(i) undertakings, expectations or understandings operative under an arrangement, and

(ii) any provision whether express or implied and whether absolute or not.

Modifications etc. (not altering text)

C1272 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

989 Convertible securities

(1) For the purposes of this Chapter securities of a company are treated as shares in the company if they are convertible into or entitle the holder to subscribe for such shares.

References to the holder of shares or a shareholder are to be read accordingly.

(2) Subsection (1) is not to be read as requiring any securities to be treated—

(a) as shares of the same class as those into which they are convertible or for which the holder is entitled to subscribe, or

(b) as shares of the same class as other securities by reason only that the shares into which they are convertible or for which the holder is entitled to subscribe are of the same class.

Modifications etc. (not altering text)

C1273 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

990 Debentures carrying voting rights

(1) For the purposes of this Chapter debentures issued by a company to which subsection (2) applies are treated as shares in the company if they carry voting rights.

(2) This subsection applies to a company that has voting shares, or debentures carrying voting rights, which are admitted to trading on a regulated market.

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(3) In this Chapter, in relation to debentures treated as shares by virtue of subsection (1)—

(a) references to the holder of shares or a shareholder are to be read accordingly;

(b) references to shares being allotted are to be read as references to debentures being issued.

Modifications etc. (not altering text)

C1274 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

991 Interpretation

(1) In this Chapter—

"the company" means the company whose shares are the subject of a takeover offer;

"date of the offer" means—

(a) where the offer is published, the date of publication;

(b) where the offer is not published, or where any notices of the offer are given before the date of publication, the date when notices of the offer (or the first such notices) are given;

and references to the date of the offer are to be read in accordance with section 974(7) (revision of offer terms) where that applies;

"non-voting shares" means shares that are not voting shares;

"offeror" means (subject to section 987) the person making a takeover offer;

"voting rights" means rights to vote at general meetings of the company, including rights that arise only in certain circumstances;

"voting shares" means shares carrying voting rights.

(2) For the purposes of this Chapter a person contracts unconditionally to acquire shares if his entitlement under the contract to acquire them is not (or is no longer) subject to conditions or if all conditions to which it was subject have been met.

A reference to a contract becoming unconditional is to be read accordingly.

Modifications etc. (not altering text)

C1275 Ss. 974-991 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 14(2)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

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CHAPTER 4

AMENDMENTS TO PART 7 OF THE COMPANIES ACT 1985

992 Matters to be dealt with in directors' report

(1) Part 7 of the Companies Act 1985 (c. 6) (accounts and audit) is amended as follows.

(2) In Schedule 7 (matters to be dealt with in directors' report), after Part 6 insert—

"PART 7

DISCLOSURE REQUIRED BY CERTAIN PUBLICLY-TRADED COMPANIES

13 (1) This Part of this Schedule applies to the directors' report for a financial year if the company had securities carrying voting rights admitted to trading on a regulated market at the end of that year.

(2) The report shall contain detailed information, by reference to the end of that year, on the following matters—

(a) the structure of the company's capital, including in particular—

(i) the rights and obligations attaching to the shares or, as the case may be, to each class of shares in the company, and

(ii) where there are two or more such classes, the percentage of the total share capital represented by each class;

(b) any restrictions on the transfer of securities in the company, including in particular—

(i) limitations on the holding of securities, and

(ii) requirements to obtain the approval of the company, or of other holders of securities in the company, for a transfer of securities;

(c) in the case of each person with a significant direct or indirect holding of securities in the company, such details as are known to the company of—

(i) the identity of the person,

(ii) the size of the holding, and

(iii) the nature of the holding;

(d) in the case of each person who holds securities carrying special rights with regard to control of the company—

(i) the identity of the person, and

(ii) the nature of the rights;

(e) where—

(i) the company has an employees' share scheme, and

(ii) shares to which the scheme relates have rights with regard to control of the company that are not exercisable directly by the employees,

how those rights are exercisable;

(f) any restrictions on voting rights, including in particular—

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(i) limitations on voting rights of holders of a given percentage or number of votes,

(ii) deadlines for exercising voting rights, and

(iii) arrangements by which, with the company's co-operation, financial rights carried by securities are held by a person other than the holder of the securities;

(g) any agreements between holders of securities that are known to the company and may result in restrictions on the transfer of securities or on voting rights;

(h) any rules that the company has about—

(i) appointment and replacement of directors, or

(ii) amendment of the company's articles of association;

(i) the powers of the company's directors, including in particular any powers in relation to the issuing or buying back by the company of its shares;

(j) any significant agreements to which the company is a party that take effect, alter or terminate upon a change of control of the company following a takeover bid, and the effects of any such agreements;

(k) any agreements between the company and its directors or employees providing for compensation for loss of office or employment (whether through resignation, purported redundancy or otherwise) that occurs because of a takeover bid.

(3) For the purposes of sub-paragraph (2)(a) a company's capital includes any securities in the company that are not admitted to trading on a regulated market.

(4) For the purposes of sub-paragraph (2)(c) a person has an indirect holding of securities if—

(a) they are held on his behalf, or

(b) he is able to secure that rights carried by the securities are exercised in accordance with his wishes.

(5) Sub-paragraph (2)(j) does not apply to an agreement if—

(a) disclosure of the agreement would be seriously prejudicial to the company, and

(b) the company is not under any other obligation to disclose it.

(6) In this paragraph—

"securities" means shares or debentures;

"takeover bid" has the same meaning as in the Takeovers Directive;

"the Takeovers Directive" means Directive 2004/25/EC of the European Parliament and of the Council;

"voting rights" means rights to vote at general meetings of the company in question, including rights that arise only in certain circumstances.".

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(3) In section 234ZZA (requirements of directors' reports), at the end of subsection (4) (contents of Schedule 7) insert— " Part 7 specifies information to be disclosed by certain publicly-traded companies. ".

(4) After that subsection insert—

"(5) A directors' report shall also contain any necessary explanatory material with regard to information that is required to be included in the report by Part 7 of Schedule 7.".

(5) In section 251 (summary financial statements), after subsection (2ZA) insert—

"(2ZB) A company that sends to an entitled person a summary financial statement instead of a copy of its directors' report shall—

(a) include in the statement the explanatory material required to be included in the directors' report by section 234ZZA(5), or

(b) send that material to the entitled person at the same time as it sends the statement.

For the purposes of paragraph (b), subsections (2A) to (2E) apply in relation to the material referred to in that paragraph as they apply in relation to a summary financial statement.".

(6) The amendments made by this section apply in relation to directors' reports for financial years beginning on or after 20th May 2006.

Modifications etc. (not altering text)

C1276S. 992 applied (with modifications) (6.4.2007) by The Companies Act 2006 (Commencement No. 2, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/1093), **art. 9** (with art. 11(1))

PART 29

FRAUDULENT TRADING

Modifications etc. (not altering text)

C1277 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

993 Offence of fraudulent trading

(1) If any business of a company is carried on with intent to defraud creditors of the company or creditors of any other person, or for any fraudulent purpose, every person who is knowingly a party to the carrying on of the business in that manner commits an offence.

(2) This applies whether or not the company has been, or is in the course of being, wound up.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding ten years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or a fine not exceeding the statutory maximum (or both);

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

Modifications etc. (not altering text)

C1278 S. 993 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **47**

C1279 S. 993 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 15** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1280 S. 993 applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (General) Regulations 2012 (S.I. 2012/3012), regs. 1, **60(1)(3)**

PART 30

PROTECTION OF MEMBERS AGAINST UNFAIR PREJUDICE

Modifications etc. (not altering text)

C1281 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

Main provisions

994 Petition by company member

(1) A member of a company may apply to the court by petition for an order under this Part on the ground—

(a) that the company's affairs are being or have been conducted in a manner that is unfairly prejudicial to the interests of members generally or of some part of its members (including at least himself), or

(b) that an actual or proposed act or omission of the company (including an act or omission on its behalf) is or would be so prejudicial.

[F1081(1A) For the purposes of subsection (1)(a), a removal of the company's auditor from office—

(a) on grounds of divergence of opinions on accounting treatments or audit procedures, or

(b) on any other improper grounds,

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shall be treated as being unfairly prejudicial to the interests of some part of the company's members.**]**

(2) The provisions of this Part apply to a person who is not a member of a company but to whom shares in the company have been transferred or transmitted by operation of law as they apply to a member of a company.

(3) In this section, and so far as applicable for the purposes of this section in the other provisions of this Part, "company" means—

(a) a company within the meaning of this Act, or

F1082(b) . . . . . .

Textual Amendments

F1081 S. 994(1A) inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 42(1)** (with reg. 42(2))

F1082 S. 994(3)(b) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(r), **Sch. 23 para. 28(7)**

Modifications etc. (not altering text)

C1282 Ss. 994-996 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **48** (as amended (1.4.2013) by S.I. 2013/472, Sch. 2 para. 174)

Commencement Information

I337 S. 994 wholly in force at 1.10.2007; s. 994 not in force at Royal Assent see s. 1300; s. 994 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(j)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

995 Petition by Secretary of State

(1) This section applies to a company in respect of which—

(a) the Secretary of State has received a report under section 437 of the Companies Act 1985 (c. 6) (inspector's report);

(b) the Secretary of State has exercised his powers under section 447 or 448 of that Act (powers to require documents and information or to enter and search premises);

(c) the Secretary of State **[**F1083, the Financial Conduct Authority, the Prudential Regulation Authority or the Bank of England**]** has exercised his or its powers under Part 11 of the Financial Services and Markets Act 2000 (c. 8) (information gathering and investigations); or

(d) the Secretary of State has received a report from an investigator appointed by him **[**F1084, the Financial Conduct Authority, the Prudential Regulation Authority or the Bank of England**]** under that Part.

(2) If it appears to the Secretary of State that in the case of such a company—

(a) the company's affairs are being or have been conducted in a manner that is unfairly prejudicial to the interests of members generally or of some part of its members, or

(b) an actual or proposed act or omission of the company (including an act or omission on its behalf) is or would be so prejudicial,

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he may apply to the court by petition for an order under this Part.

(3) The Secretary of State may do this in addition to, or instead of, presenting a petition for the winding up of the company.

(4) In this section, and so far as applicable for the purposes of this section in the other provisions of this Part, "company" means any body corporate that is liable to be wound up under the Insolvency Act 1986 (c. 45) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

Textual Amendments

F1083 Words in s. 995(1)(c) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 120(a)** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

F1084 Words in s. 995(1)(d) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 120(b)** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

Modifications etc. (not altering text)

C1283 Ss. 994-996 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **48** (as amended (1.4.2013) by S.I. 2013/472, Sch. 2 para. 174)

Commencement Information

I338 S. 995 wholly in force at 1.10.2007; s. 995 not in force at Royal Assent see s. 1300; s. 995 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(j)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

996 Powers of the court under this Part

(1) If the court is satisfied that a petition under this Part is well founded, it may make such order as it thinks fit for giving relief in respect of the matters complained of.

(2) Without prejudice to the generality of subsection (1), the court's order may—

(a) regulate the conduct of the company's affairs in the future;

(b) require the company—

(i) to refrain from doing or continuing an act complained of, or

(ii) to do an act that the petitioner has complained it has omitted to do;

(c) authorise civil proceedings to be brought in the name and on behalf of the company by such person or persons and on such terms as the court may direct;

(d) require the company not to make any, or any specified, alterations in its articles without the leave of the court;

(e) provide for the purchase of the shares of any members of the company by other members or by the company itself and, in the case of a purchase by the company itself, the reduction of the company's capital accordingly.

Modifications etc. (not altering text)

C1284 Ss. 994-996 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **48** (as amended (1.4.2013) by S.I. 2013/472, Sch. 2 para. 174)

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Commencement Information

I339 S. 996 wholly in force at 1.10.2007; s. 996 not in force at Royal Assent see s. 1300; s. 996 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(j)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

Supplementary provisions

997 Application of general rule-making powers

The power to make rules under section 411 of the Insolvency Act 1986 (c. 45) or Article 359 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), so far as relating to a winding-up petition, applies for the purposes of a petition under this Part.

Modifications etc. (not altering text)

C1285 S. 997 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **49**

Commencement Information

I340 S. 997 wholly in force at 1.10.2007; s. 997 not in force at Royal Assent see s. 1300; s. 997 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(j)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

998 Copy of order affecting company's constitution to be delivered to registrar

(1) Where an order of the court under this Part—

(a) alters the company's constitution, or

(b) gives leave for the company to make any, or any specified, alterations to its constitution,

the company must deliver a copy of the order to the registrar.

(2) It must do so within 14 days from the making of the order or such longer period as the court may allow.

(3) If a company makes default in complying with this section, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

Commencement Information

I341 S. 998 wholly in force at 1.10.2007; s. 998 not in force at Royal Assent see s. 1300; s. 998 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(j)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

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999 Supplementary provisions where company's constitution altered

(1) This section applies where an order under this Part alters a company's constitution.

(2) If the order amends—

(a) a company's articles, or

(b) any resolution or agreement to which Chapter 3 of Part 3 applies (resolution or agreement affecting a company's constitution),

the copy of the order delivered to the registrar by the company under section 998 must be accompanied by a copy of the company's articles, or the resolution or agreement in question, as amended.

(3) Every copy of a company's articles issued by the company after the order is made must be accompanied by a copy of the order, unless the effect of the order has been incorporated into the articles by amendment.

(4) If a company makes default in complying with this section an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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

Commencement Information

I342 S. 999 wholly in force at 1.10.2007; s. 999 not in force at Royal Assent see s. 1300; s. 999 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(j)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

PART 31

DISSOLUTION AND RESTORATION TO THE REGISTER

Modifications etc. (not altering text)

C1286 Pt. 31 power to apply (with modifications) conferred (E.W.S.) (1.12.2013) by Co-operative and Community Benefit Societies and Credit Unions Act 2010 (c. 7), **ss. 4(1)**(2)(c), 8(2); S.I. 2013/2936, art. 2

C1287 Pt. 31 power to apply (with modifications) conferred (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), **ss. 135**, 154 (with Sch. 5)

C1288 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

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CHAPTER 1

STRIKING OFF

Registrar's power to strike off defunct company

1000 Power to strike off company not carrying on business or in operation

(1) If the registrar has reasonable cause to believe that a company is not carrying on business or in operation, the registrar may send to the company **[**F1085a communication**]** inquiring whether the company is carrying on business or in operation.

(2) If the registrar does not within **[**F1086 14 days of sending**][**F1087 the communication**]** receive any answer to it, the registrar must within 14 days after the expiration of **[**F1088that period**]** send to the company **[**F1087a second communication referring to the first communication**]**, and stating—

(a) that no answer to it has been received, and

(b) that if an answer is not received to the second **[**F1089communication**]** within **[**F1090 14 days**]** from its date, a notice will be published in the Gazette with a view to striking the company's name off the register.

(3) If the registrar—

(a) receives an answer to the effect that the company is not carrying on business or in operation, or

(b) does not within **[**F1091 14 days**]** after sending the second **[**F1092communication**]** receive any answer,

the registrar may publish in the Gazette, and send to the company F1093 ..., a notice that at the expiration of **[**F1094 2 months **]** from the date of the notice the name of the company mentioned in it will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(4) At the expiration of the time mentioned in the notice the registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register.

(5) The registrar must publish notice in the Gazette of the company's name having been struck off the register.

(6) On the publication of the notice in the Gazette the company is dissolved.

(7) However—

(a) the liability (if any) of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved, and

(b) nothing in this section affects the power of the court to wind up a company the name of which has been struck off the register.

Textual Amendments

F1085 Words in s. 1000(1) substituted (11.7.2014) by The Companies (Striking Off) (Electronic Communications) Order 2014 (S.I. 2014/1602), arts. 1(1), **2(2)(a)**

F1086 Words in s. 1000(2) substituted (10.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 103(2)(a)(i)**, 164(1) (with s. 103(5)); S.I. 2015/1689, reg. 4(c)

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F1087 Words in s. 1000(2) substituted (11.7.2014) by The Companies (Striking Off) (Electronic Communications) Order 2014 (S.I. 2014/1602), arts. 1(1), **2(2)(b)**

F1088 Words in s. 1000(2) substituted (10.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 103(2)(a)(ii)**, 164(1) (with s. 103(5)); S.I. 2015/1689, reg. 4(c)

F1089 Word in s. 1000(2)(b) substituted (11.7.2014) by The Companies (Striking Off) (Electronic Communications) Order 2014 (S.I. 2014/1602), arts. 1(1), **2(2)(c)**

F1090 Words in s. 1000(2)(b) substituted (10.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 103(2)(a)(iii)**, 164(1) (with s. 103(5)); S.I. 2015/1689, reg. 4(c)

F1091 Words in s. 1000(3)(b) substituted (10.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 103(2)(b)(i)**, 164(1) (with s. 103(5)); S.I. 2015/1689, reg. 4(c)

F1092 Word in s. 1000(3)(b) substituted (11.7.2014) by The Companies (Striking Off) (Electronic Communications) Order 2014 (S.I. 2014/1602), arts. 1(1), **2(2)(d)**

F1093 Words in s. 1000(3) omitted (11.7.2014) by virtue of The Companies (Striking Off) (Electronic Communications) Order 2014 (S.I. 2014/1602), arts. 1(1), **2(2)(e)**

F1094 Words in s. 1000(3) substituted (10.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 103(2)(b)(ii)**, 164(1) (with s. 103(5)); S.I. 2015/1689, reg. 4(c)

Modifications etc. (not altering text)

C1289 Ss. 1000-1002 applied (with modifications) (11.7.2014) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **50** (as amended by The Companies (Striking Off) (Electronic Communications) Order 2014 (S.I. 2014/1602), arts. 1(1), **3(2)(3)** and as amended (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, **5**)

1001 Duty to act in case of company being wound up

(1) If, in a case where a company is being wound up—

(a) the registrar has reasonable cause to believe—

(i) that no liquidator is acting, or

(ii) that the affairs of the company are fully wound up, and

(b) the returns required to be made by the liquidator have not been made for a period of six consecutive months,

the registrar must publish in the Gazette and send to the company or the liquidator (if any) a notice that at the expiration of **[**[F1095]2 months**]** from the date of the notice the name of the company mentioned in it will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(2) At the expiration of the time mentioned in the notice the registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register.

(3) The registrar must publish notice in the Gazette of the company's name having been struck off the register.

(4) On the publication of the notice in the Gazette the company is dissolved.

(5) However—

(a) the liability (if any) of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved, and

(b) nothing in this section affects the power of the court to wind up a company the name of which has been struck off the register.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F1095 Words in s. 1001(1) substituted (10.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 103(3)**, 164(1) (with s. 103(6)); S.I. 2015/1689, reg. 4(c)

Modifications etc. (not altering text)

C1290 Ss. 1000-1002 applied (with modifications) (11.7.2014) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 50 (as amended by The Companies (Striking Off) (Electronic Communications) Order 2014 (S.I. 2014/1602), arts. 1(1), 3(2) and as amended (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, **5(3)**)

1002 Supplementary provisions as to service of [F1096communication] or notice

[F1097(1) If the registrar is not able to send a communication or notice under section 1000 or 1001 to a company in accordance with Schedule 4, the communication may be sent to an officer of the company at an address for that officer that has been notified to the registrar by the company.**]**

(2) If there is no officer of the company whose name and address are known to the registrar, the **[**F1098communication**]** or notice may be sent to each of the persons who subscribed the memorandum (if their addresses are known to the registrar).

[F1099(3) A notice to be sent to a liquidator under section 1001 may be sent to the address of the liquidator's last known place of business or to an address specified by the liquidator to the registrar for the purpose of receiving notices, or notices of that kind.**]**

[F1100(4) In this section "address" has the same meaning as in section 1148(1).**]**

Textual Amendments

F1096 Word in s. 1002 heading substituted (11.7.2014) by The Companies (Striking Off) (Electronic Communications) Order 2014 (S.I. 2014/1602), arts. 1(1), **2(3)(a)**

F1097 S. 1002(1) substituted (11.7.2014) by The Companies (Striking Off) (Electronic Communications) Order 2014 (S.I. 2014/1602), arts. 1(1), **2(3)(b)**

F1098 Word in s. 1002(2) substituted (11.7.2014) by The Companies (Striking Off) (Electronic Communications) Order 2014 (S.I. 2014/1602), arts. 1(1), **2(3)(c)**

F1099 S. 1002(3) substituted (11.7.2014) by The Companies (Striking Off) (Electronic Communications) Order 2014 (S.I. 2014/1602), arts. 1(1), **2(3)(d)**

F1100 S. 1002(4) inserted (11.7.2014) by The Companies (Striking Off) (Electronic Communications) Order 2014 (S.I. 2014/1602), arts. 1(1), **2(3)(e)**

Modifications etc. (not altering text)

C1290 Ss. 1000-1002 applied (with modifications) (11.7.2014) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 50 (as amended by The Companies (Striking Off) (Electronic Communications) Order 2014 (S.I. 2014/1602), arts. 1(1), 3(2) and as amended (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, **5(3)**)

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Voluntary striking off

1003 Striking off on application by company

(1) On application by a company, the registrar of companies may strike the company's name off the register.

(2) The application—

(a) must be made on the company's behalf by its directors or by a majority of them, and

(b) must contain the prescribed information.

(3) The registrar may not strike a company off under this section until after the expiration of **[**F1101 2 months**]** from the publication by the registrar in the Gazette of a notice—

(a) stating that the registrar may exercise the power under this section in relation to the company, and

(b) inviting any person to show cause why that should not be done.

(4) The registrar must publish notice in the Gazette of the company's name having been struck off.

(5) On the publication of the notice in the Gazette the company is dissolved.

(6) However—

(a) the liability (if any) of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved, and

(b) nothing in this section affects the power of the court to wind up a company the name of which has been struck off the register.

Textual Amendments

F1101 Words in s. 1003(3) substituted (10.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 103(4)**, 164(1) (with s. 103(7)); S.I. 2015/1689, reg. 4(c)

Modifications etc. (not altering text)

C1291 Ss. 1003-1011 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **51** (as amended (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, **5(4)** and (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 4**)

Commencement Information

I343 S. 1003 wholly in force at 1.10.2009; s. 1003 not in force at Royal Assent, see s. 1300; s. 1003 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1003 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(o)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Status: *Point in time view as at 31/12/2020.*
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1004 Circumstances in which application not to be made: activities of company

(1) An application under section 1003 (application for voluntary striking off) on behalf of a company must not be made if, at any time in the previous three months, the company has—

(a) changed its name,

(b) traded or otherwise carried on business,

(c) made a disposal for value of property or rights that, immediately before ceasing to trade or otherwise carry on business, it held for the purpose of disposal for gain in the normal course of trading or otherwise carrying on business, or

(d) engaged in any other activity, except one which is—

(i) necessary or expedient for the purpose of making an application under that section, or deciding whether to do so,

(ii) necessary or expedient for the purpose of concluding the affairs of the company,

(iii) necessary or expedient for the purpose of complying with any statutory requirement, or

(iv) specified by the Secretary of State by order for the purposes of this sub-paragraph.

(2) For the purposes of this section, a company is not to be treated as trading or otherwise carrying on business by virtue only of the fact that it makes a payment in respect of a liability incurred in the course of trading or otherwise carrying on business.

(3) The Secretary of State may by order amend subsection (1) for the purpose of altering the period in relation to which the doing of the things mentioned in paragraphs (a) to (d) of that subsection is relevant.

(4) An order under this section is subject to negative resolution procedure.

(5) It is an offence for a person to make an application in contravention of this section.

(6) In proceedings for such an offence it is a defence for the accused to prove that he did not know, and could not reasonably have known, of the existence of the facts that led to the contravention.

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

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

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

Modifications etc. (not altering text)

C1291 Ss. 1003-1011 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **51** (as amended (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, **5(4)** and (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 4**)

C1292S. 1004(5)-(7) applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012 (S.I. 2012/3013), regs. 1, **8(2)(3)**

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Commencement Information

I344 S. 1004 wholly in force at 1.10.2009; s. 1004 not in force at Royal Assent, see s. 1300; s. 1004 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1004 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(o)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1005 Circumstances in which application not to be made: other proceedings not concluded

(1) An application under section 1003 (application for voluntary striking off) on behalf of a company must not be made at a time when—

(a) an application to the court under Part 26 **[**[F1102]or 26A**]** has been made on behalf of the company for the sanctioning of a compromise or arrangement and the matter has not been finally concluded;

(b) a voluntary arrangement in relation to the company has been proposed under Part 1 of the Insolvency Act 1986 (c. 45) or Part 2 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) and the matter has not been finally concluded;

(c) the company is in administration under Part 2 of that Act or Part 3 of that Order;

(d) paragraph 44 of Schedule B1 to that Act or paragraph 45 of Schedule B1 to that Order applies (interim moratorium on proceedings where application to the court for an administration order has been made or notice of intention to appoint administrator has been filed);

(e) the company is being wound up under Part 4 of that Act or Part 5 of that Order, whether voluntarily or by the court, or a petition under that Part for winding up of the company by the court has been presented and not finally dealt with or withdrawn;

(f) there is a receiver or manager of the company's property;

(g) the company's estate is being administered by a judicial factor.

(2) For the purposes of subsection (1)(a), the matter is finally concluded if—

(a) the application has been withdrawn,

(b) the application has been finally dealt with without a compromise or arrangement being sanctioned by the court, or

(c) a compromise or arrangement has been sanctioned by the court and has, together with anything required to be done under any provision made in relation to the matter by order of the court, been fully carried out.

(3) For the purposes of subsection (1)(b), the matter is finally concluded if—

(a) no meetings are to be summoned under section 3 of the Insolvency Act 1986 (c. 45) or Article 16 of the Insolvency (Northern Ireland) Order 1989,

(b) meetings summoned under that section or Article fail to approve the arrangement with no, or the same, modifications,

(c) an arrangement approved by meetings summoned under that section, or in consequence of a direction under section 6(4)(b) of that Act or Article 19(4)(b) of that Order, has been fully implemented, or

(d) the court makes an order under section 6(5) of that Act or Article 19(5) of that Order revoking approval given at previous meetings and, if the court gives

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any directions under section 6(6) of that Act or Article 19(6) of that Order, the company has done whatever it is required to do under those directions.

(4) It is an offence for a person to make an application in contravention of this section.

(5) In proceedings for such an offence it is a defence for the accused to prove that he did not know, and could not reasonably have known, of the existence of the facts that led to the contravention.

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

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

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

Textual Amendments

F1102 Words in s. 1005(1)(a) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 37(2)** (with ss. 2(2), 5(2))

Modifications etc. (not altering text)

C1291 Ss. 1003-1011 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **51** (as amended (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, **5(4)** and (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 4**)

C1293 S. 1005(4)-(6) applied (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012 (S.I. 2012/3013), regs. 1, **9(3)**

1006 Copy of application to be given to members, employees, etc

(1) A person who makes an application under section 1003 (application for voluntary striking off) on behalf of a company must secure that, within seven days from the day on which the application is made, a copy of it is given to every person who at any time on that day is—

(a) a member of the company,

(b) an employee of the company,

(c) a creditor of the company,

(d) a director of the company,

(e) a manager or trustee of any pension fund established for the benefit of employees of the company, or

(f) a person of a description specified for the purposes of this paragraph by regulations made by the Secretary of State.

Regulations under paragraph (f) are subject to negative resolution procedure.

(2) Subsection (1) does not require a copy of the application to be given to a director who is a party to the application.

(3) The duty imposed by this section ceases to apply if the application is withdrawn before the end of the period for giving the copy application.

(4) A person who fails to perform the duty imposed on him by this section commits an offence.

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If he does so with the intention of concealing the making of the application from the person concerned, he commits an aggravated offence.

(5) In proceedings for an offence under this section it is a defence for the accused to prove that he took all reasonable steps to perform the duty.

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

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

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

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

(a) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

Modifications etc. (not altering text)

C1291 Ss. 1003-1011 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **51** (as amended (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, **5(4)** and (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 4**)

C1294 S. 1006(4)-(7) applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012 (S.I. 2012/3013), regs. 1, **12(5)(6)**

Commencement Information

I345 S. 1006 wholly in force at 1.10.2009; s. 1006 not in force at Royal Assent, see s. 1300; s. 1006 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1006 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(o)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1007 Copy of application to be given to new members, employees, etc

(1) This section applies in relation to any time after the day on which a company makes an application under section 1003 (application for voluntary striking off) and before the day on which the application is finally dealt with or withdrawn.

(2) A person who is a director of the company at the end of a day on which a person (other than himself) becomes—

(a) a member of the company,

(b) an employee of the company,

(c) a creditor of the company,

(d) a director of the company,

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(e) a manager or trustee of any pension fund established for the benefit of employees of the company, or

(f) a person of a description specified for the purposes of this paragraph by regulations made by the Secretary of State,

must secure that a copy of the application is given to that person within seven days from that day.

Regulations under paragraph (f) are subject to negative resolution procedure.

(3) The duty imposed by this section ceases to apply if the application is finally dealt with or withdrawn before the end of the period for giving the copy application.

(4) A person who fails to perform the duty imposed on him by this section commits an offence.

If he does so with the intention of concealing the making of the application from the person concerned, he commits an aggravated offence.

(5) In proceedings for an offence under this section it is a defence for the accused to prove—

(a) that at the time of the failure he was not aware of the fact that the company had made an application under section 1003, or

(b) that he took all reasonable steps to perform the duty.

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

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

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

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

(a) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

Modifications etc. (not altering text)

C1291 Ss. 1003-1011 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **51** (as amended (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, **5(4)** and (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 4**)

Commencement Information

I346 S. 1007 wholly in force at 1.10.2009; s. 1007 not in force at Royal Assent, see s. 1300; s. 1007 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts.

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6, 8, Sch. 5); s. 1007 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(o)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1008 Copy of application: provisions as to service of documents

(1) The following provisions have effect for the purposes of—

section 1006 (copy of application to be given to members, employees, etc), and

section 1007 (copy of application to be given to new members, employees, etc).

(2) A document is treated as given to a person if it is—

(a) delivered to him, or

(b) left at his proper address, or

(c) sent by post to him at that address.

(3) For the purposes of subsection (2) and section 7 of the Interpretation Act 1978 (c. 30) (service of documents by post) as it applies in relation to that subsection, the proper address of a person is—

(a) in the case of a firm incorporated or formed in the United Kingdom, its registered or principal office;

(b) in the case of a firm incorporated or formed outside the United Kingdom—

(i) if it has a place of business in the United Kingdom, its principal office in the United Kingdom, or

(ii) if it does not have a place of business in the United Kingdom, its registered or principal office;

(c) in the case of an individual, his last known address.

(4) In the case of a creditor of the company a document is treated as given to him if it is left or sent by post to him—

(a) at the place of business of his with which the company has had dealings by virtue of which he is a creditor of the company, or

(b) if there is more than one such place of business, at each of them.

Modifications etc. (not altering text)

C1291 Ss. 1003-1011 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **51** (as amended (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, **5(4)** and (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 4**)

1009 Circumstances in which application to be withdrawn

(1) This section applies where, at any time on or after the day on which a company makes an application under section 1003 (application for voluntary striking off) and before the day on which the application is finally dealt with or withdrawn—

(a) the company—

(i) changes its name,

(ii) trades or otherwise carries on business,

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(iii) makes a disposal for value of any property or rights other than those which it was necessary or expedient for it to hold for the purpose of making, or proceeding with, an application under that section, or

(iv) engages in any activity, except one to which subsection (4) applies;

(b) an application is made to the court under Part 26 **[**F1103or 26A**]** on behalf of the company for the sanctioning of a compromise or arrangement;

(c) a voluntary arrangement in relation to the company is proposed under Part 1 of the Insolvency Act 1986 (c. 45) or Part 2 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19));

(d) an application to the court for an administration order in respect of the company is made under paragraph 12 of Schedule B1 to that Act or paragraph 13 of Schedule B1 to that Order;

(e) an administrator is appointed in respect of the company under paragraph 14 or 22 of Schedule B1 to that Act or paragraph 15 or 23 of Schedule B1 to that Order, or a copy of notice of intention to appoint an administrator of the company under any of those provisions is filed with the court;

(f) there arise any of the circumstances in which, under section 84(1) of that Act or Article 70 of that Order, the company may be voluntarily wound up;

(g) a petition is presented for the winding up of the company by the court under Part 4 of that Act or Part 5 of that Order;

(h) a receiver or manager of the company's property is appointed; or

(i) a judicial factor is appointed to administer the company's estate.

(2) A person who, at the end of a day on which any of the events mentioned in subsection (1) occurs, is a director of the company must secure that the company's application is withdrawn forthwith.

(3) For the purposes of subsection (1)(a), a company is not treated as trading or otherwise carrying on business by virtue only of the fact that it makes a payment in respect of a liability incurred in the course of trading or otherwise carrying on business.

(4) The excepted activities referred to in subsection (1)(a)(iv) are—

(a) any activity necessary or expedient for the purposes of—

(i) making, or proceeding with, an application under section 1003 (application for voluntary striking off),

(ii) concluding affairs of the company that are outstanding because of what has been necessary or expedient for the purpose of making, or proceeding with, such an application, or

(iii) complying with any statutory requirement;

(b) any activity specified by the Secretary of State by order for the purposes of this subsection.

An order under paragraph (b) is subject to negative resolution procedure.

(5) A person who fails to perform the duty imposed on him by this section commits an offence.

(6) In proceedings for an offence under this section it is a defence for the accused to prove—

(a) that at the time of the failure he was not aware of the fact that the company had made an application under section 1003, or

(b) that he took all reasonable steps to perform the duty.

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

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

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

Textual Amendments

F1103 Words in s. 1009(1)(b) inserted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 37(3)** (with ss. 2(2), 5(2))

Modifications etc. (not altering text)

C1291 Ss. 1003-1011 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **51** (as amended (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, **5(4)** and (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 4**)

C1295 S. 1009(5)-(7) applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012 (S.I. 2012/3013), regs. 1, **14(3)(4)**

Commencement Information

I347 S. 1009 wholly in force at 1.10.2009; s. 1009 not in force at Royal Assent, see s. 1300; s. 1009 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1009 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(o)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1010 Withdrawal of application

An application under section 1003 is withdrawn by notice to the registrar.

Modifications etc. (not altering text)

C1291 Ss. 1003-1011 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **51** (as amended (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, **5(4)** and (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 4**)

1011 Meaning of "creditor"

In this Chapter "creditor" includes a contingent or prospective creditor.

Modifications etc. (not altering text)

C1291 Ss. 1003-1011 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **51** (as amended (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, **5(4)** and (26.6.2020) by The Limited Liability Partnerships (Amendment etc.) Regulations 2020 (S.I. 2020/643), reg. 1(1), **Sch. 3 para. 4**)

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CHAPTER 2

PROPERTY OF DISSOLVED COMPANY

Property vesting as bona vacantia

1012 Property of dissolved company to be bona vacantia

(1) When a company is dissolved, all property and rights whatsoever vested in or held on trust for the company immediately before its dissolution (including leasehold property, but not including property held by the company on trust for another person) are deemed to be *bona vacantia* and—

(a) accordingly belong to the Crown, or to the Duchy of Lancaster or to the Duke of Cornwall for the time being (as the case may be), and

(b) vest and may be dealt with in the same manner as other *bona vacantia* accruing to the Crown, to the Duchy of Lancaster or to the Duke of Cornwall.

(2) Subsection (1) has effect subject to the possible restoration of the company to the register under Chapter 3 (see section 1034).

Modifications etc. (not altering text)

C1296 Ss. 1012-1023 applied (with modifications) by Building Societies Act 1986 (c. 53), Sch. 15 para. 57(1)(3) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 87(11)(b)** (with art. 10))

C1297 Ss. 1012-1023 applied by Friendly Societies Act 1992 (c. 40), Sch. 10 para. 68(1) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 133(7)(b)(i)** (with art. 10))

C1298 Ss. 1012-1014 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **52** (with Sch. 1 paras. 22, 34, 35)

C1299 Ss. 1012-1023 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **180(10)** (with reg. 189)

1013 Crown disclaimer of property vesting as bona vacantia

(1) Where property vests in the Crown under section 1012, the Crown's title to it under that section may be disclaimed by a notice signed by the Crown representative, that is to say the Treasury Solicitor, or, in relation to property in Scotland, the Queen's and Lord Treasurer's Remembrancer.

(2) The right to execute a notice of disclaimer under this section may be waived by or on behalf of the Crown either expressly or by taking possession.

(3) A notice of disclaimer must be executed within three years after—

(a) the date on which the fact that the property may have vested in the Crown under section 1012 first comes to the notice of the Crown representative, or

(b) if ownership of the property is not established at that date, the end of the period reasonably necessary for the Crown representative to establish the ownership of the property.

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(4) If an application in writing is made to the Crown representative by a person interested in the property requiring him to decide whether he will or will not disclaim, any notice of disclaimer must be executed within twelve months after the making of the application or such further period as may be allowed by the court.

(5) A notice of disclaimer under this section is of no effect if it is shown to have been executed after the end of the period specified by subsection (3) or (4).

(6) A notice of disclaimer under this section must be delivered to the registrar and retained and registered by him.

(7) Copies of it must be published in the Gazette and sent to any persons who have given the Crown representative notice that they claim to be interested in the property.

(8) This section applies to property vested in the Duchy of Lancaster or the Duke of Cornwall under section 1012 as if for references to the Crown and the Crown representative there were respectively substituted references to the Duchy of Lancaster and to the Solicitor to that Duchy, or to the Duke of Cornwall and to the Solicitor to the Duchy of Cornwall, as the case may be.

Modifications etc. (not altering text)

C1299 Ss. 1012-1023 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **180(10)** (with reg. 189)

C1300 Ss. 1012-1023 applied (with modifications) by Building Societies Act 1986 (c. 53), Sch. 15 para. 57(1)(3) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 87(11)(b)** (with art. 10))

C1301 Ss. 1012-1023 applied by Friendly Societies Act 1992 (c. 40), Sch. 10 para. 68(1) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 133(7)(b)(i)** (with art. 10))

C1302 Ss. 1012-1014 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **52** (with Sch. 1 paras. 22, 34, 35)

1014 Effect of Crown disclaimer

(1) Where notice of disclaimer is executed under section 1013 as respects any property, that property is deemed not to have vested in the Crown under section 1012.

(2) The following sections contain provisions as to the effect of the Crown disclaimer—

sections 1015 to 1019 apply in relation to property in England and Wales or Northern Ireland;

sections 1020 to 1022 apply in relation to property in Scotland.

Modifications etc. (not altering text)

C1299 Ss. 1012-1023 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **180(10)** (with reg. 189)

C1303 Ss. 1012-1023 applied (with modifications) by Building Societies Act 1986 (c. 53), Sch. 15 para. 57(1)(3) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 87(11)(b)** (with art. 10))

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C1304 Ss. 1012-1023 applied by Friendly Societies Act 1992 (c. 40), Sch. 10 para. 68(1) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 133(7)(b)(i)** (with art. 10))

C1305 Ss. 1012-1014 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **52** (with Sch. 1 paras. 22, 34, 35)

Effect of Crown disclaimer: England and Wales and Northern Ireland

1015 General effect of disclaimer

(1) The Crown's disclaimer operates so as to terminate, as from the date of the disclaimer, the rights, interests and liabilities of the company in or in respect of the property disclaimed.

(2) It does not, except so far as is necessary for the purpose of releasing the company from any liability, affect the rights or liabilities of any other person.

Modifications etc. (not altering text)

C1299 Ss. 1012-1023 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **180(10)** (with reg. 189)

C1306 Ss. 1012-1023 applied (with modifications) by Building Societies Act 1986 (c. 53), Sch. 15 para. 57(1)(3) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 87(11)(b)** (with art. 10))

C1307 Ss. 1012-1023 applied by Friendly Societies Act 1992 (c. 40), Sch. 10 para. 68(1) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 133(7)(b)(i)** (with art. 10))

C1308 Ss. 1015-1019 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **53** (with Sch. 1 paras. 22, 34, 35)

1016 Disclaimer of leaseholds

(1) The disclaimer of any property of a leasehold character does not take effect unless a copy of the disclaimer has been served (so far as the Crown representative is aware of their addresses) on every person claiming under the company as underlessee or mortgagee, and either—

(a) no application under section 1017 (power of court to make vesting order) is made with respect to that property before the end of the period of 14 days beginning with the day on which the last notice under this paragraph was served, or

(b) where such an application has been made, the court directs that the disclaimer shall take effect.

(2) Where the court gives a direction under subsection (1)(b) it may also, instead of or in addition to any order it makes under section 1017, make such order as it thinks fit with respect to fixtures, tenant's improvements and other matters arising out of the lease.

(3) In this section the "Crown representative" means—

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(a) in relation to property vested in the Duchy of Lancaster, the Solicitor to that Duchy;

(b) in relation to property vested in the Duke of Cornwall, the Solicitor to the Duchy of Cornwall;

(c) in relation to property in Scotland, the Queen's and Lord Treasurer's Remembrancer;

(d) in relation to other property, the Treasury Solicitor.

Modifications etc. (not altering text)

C1299 Ss. 1012-1023 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **180(10)** (with reg. 189)

C1309 Ss. 1012-1023 applied (with modifications) by Building Societies Act 1986 (c. 53), Sch. 15 para. 57(1)(3) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 87(11)(b)** (with art. 10))

C1310 Ss. 1012-1023 applied by Friendly Societies Act 1992 (c. 40), Sch. 10 para. 68(1) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 133(7)(b)(i)** (with art. 10))

C1311 Ss. 1015-1019 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **53** (with Sch. 1 paras. 22, 34, 35)

1017 Power of court to make vesting order

(1) The court may on application by a person who—

(a) claims an interest in the disclaimed property, or

(b) is under a liability in respect of the disclaimed property that is not discharged by the disclaimer,

make an order under this section in respect of the property.

(2) An order under this section is an order for the vesting of the disclaimed property in, or its delivery to—

(a) a person entitled to it (or a trustee for such a person), or

(b) a person subject to such a liability as is mentioned in subsection (1)(b) (or a trustee for such a person).

(3) An order under subsection (2)(b) may only be made where it appears to the court that it would be just to do so for the purpose of compensating the person subject to the liability in respect of the disclaimer.

(4) An order under this section may be made on such terms as the court thinks fit.

(5) On a vesting order being made under this section, the property comprised in it vests in the person named in that behalf in the order without conveyance, assignment or transfer.

Modifications etc. (not altering text)

C1299 Ss. 1012-1023 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **180(10)** (with reg. 189)

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C1312 Ss. 1012-1023 applied (with modifications) by Building Societies Act 1986 (c. 53), Sch. 15 para. 57(1)(3) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 87(11)(b)** (with art. 10))

C1313 Ss. 1012-1023 applied by Friendly Societies Act 1992 (c. 40), Sch. 10 para. 68(1) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 133(7)(b)(i)** (with art. 10))

C1314 Ss. 1015-1019 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **53** (with Sch. 1 paras. 22, 34, 35)

1018 Protection of persons holding under a lease

(1) The court must not make an order under section 1017 vesting property of a leasehold nature in a person claiming under the company as underlessee or mortgagee except on terms making that person—

(a) subject to the same liabilities and obligations as those to which the company was subject under the lease, or

(b) if the court thinks fit, subject to the same liabilities and obligations as if the lease had been assigned to him.

(2) Where the order relates to only part of the property comprised in the lease, subsection (1) applies as if the lease had comprised only the property comprised in the vesting order.

(3) A person claiming under the company as underlessee or mortgagee who declines to accept a vesting order on such terms is excluded from all interest in the property.

(4) If there is no person claiming under the company who is willing to accept an order on such terms, the court has power to vest the company's estate and interest in the property in any person who is liable (whether personally or in a representative character, and whether alone or jointly with the company) to perform the lessee's covenants in the lease.

(5) The court may vest that estate and interest in such a person freed and discharged from all estates, incumbrances and interests created by the company.

Modifications etc. (not altering text)

C1299 Ss. 1012-1023 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **180(10)** (with reg. 189)

C1315 Ss. 1012-1023 applied (with modifications) by Building Societies Act 1986 (c. 53), Sch. 15 para. 57(1)(3) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 87(11)(b)** (with art. 10))

C1316 Ss. 1012-1023 applied by Friendly Societies Act 1992 (c. 40), Sch. 10 para. 68(1) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 133(7)(b)(i)** (with art. 10))

C1317 Ss. 1015-1019 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **53** (with Sch. 1 paras. 22, 34, 35)

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1019 Land subject to rentcharge

Where in consequence of the disclaimer land that is subject to a rentcharge vests in any person, neither he nor his successors in title are subject to any personal liability in respect of sums becoming due under the rentcharge, except sums becoming due after he, or some person claiming under or through him, has taken possession or control of the land or has entered into occupation of it.

Modifications etc. (not altering text)

C1299 Ss. 1012-1023 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **180(10)** (with reg. 189)

C1318 Ss. 1012-1023 applied (with modifications) by Building Societies Act 1986 (c. 53), Sch. 15 para. 57(1)(3) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 87(11)(b)** (with art. 10))

C1319 Ss. 1012-1023 applied by Friendly Societies Act 1992 (c. 40), Sch. 10 para. 68(1) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 133(7)(b)(i)** (with art. 10))

C1320 Ss. 1015-1019 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **53** (with Sch. 1 paras. 22, 34, 35)

Effect of Crown disclaimer: Scotland

1020 General effect of disclaimer

(1) The Crown's disclaimer operates to determine, as from the date of the disclaimer, the rights, interests and liabilities of the company, and the property of the company, in or in respect of the property disclaimed.

(2) It does not (except so far as is necessary for the purpose of releasing the company and its property from liability) affect the rights or liabilities of any other person.

Modifications etc. (not altering text)

C1299 Ss. 1012-1023 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **180(10)** (with reg. 189)

C1321 Ss. 1012-1023 applied (with modifications) by Building Societies Act 1986 (c. 53), Sch. 15 para. 57(1)(3) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 87(11)(b)** (with art. 10))

C1322 Ss. 1012-1023 applied by Friendly Societies Act 1992 (c. 40), Sch. 10 para. 68(1) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 133(7)(b)(i)** (with art. 10))

C1323 Ss. 1020-1022 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **54** (with Sch. 1 paras. 22, 34, 35)

1021 Power of court to make vesting order

(1) The court may—

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(a) on application by a person who either claims an interest in disclaimed property or is under a liability not discharged by this Act in respect of disclaimed property, and

(b) on hearing such persons as it thinks fit,

make an order for the vesting of the property in or its delivery to any persons entitled to it, or to whom it may seem just that the property should be delivered by way of compensation for such liability, or a trustee for him.

(2) The order may be made on such terms as the court thinks fit.

(3) On a vesting order being made under this section, the property comprised in it vests accordingly in the person named in that behalf in the order, without conveyance or assignation for that purpose.

Modifications etc. (not altering text)

C1299 Ss. 1012-1023 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **180(10)** (with reg. 189)

C1324 Ss. 1012-1023 applied (with modifications) by Building Societies Act 1986 (c. 53), Sch. 15 para. 57(1)(3) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 87(11)(b)** (with art. 10))

C1325 Ss. 1012-1023 applied by Friendly Societies Act 1992 (c. 40), Sch. 10 para. 68(1) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 133(7)(b)(i)** (with art. 10))

C1326 Ss. 1020-1022 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **54** (with Sch. 1 paras. 22, 34, 35)

1022 Protection of persons holding under a lease

(1) Where the property disclaimed is held under a lease the court must not make a vesting order in favour of a person claiming under the company, whether—

(a) as sub-lessee, or

(b) as creditor in a duly registered or (as the case may be) recorded heritable security over a lease,

except on the following terms.

(2) The person must by the order be made subject—

(a) to the same liabilities and obligations as those to which the company was subject under the lease in respect of the property, or

(b) if the court thinks fit, only to the same liabilities and obligations as if the lease had been assigned to him.

In either event (if the case so requires) the liabilities and obligations must be as if the lease had comprised only the property comprised in the vesting order.

(3) A sub-lessee or creditor declining to accept a vesting order on such terms is excluded from all interest in and security over the property.

(4) If there is no person claiming under the company who is willing to accept an order on such terms, the court has power to vest the company's estate and interest in the property

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in any person liable (either personally or in a representative character, and either alone or jointly with the company) to perform the lessee's obligations under the lease.

(5) The court may vest that estate and interest in such a person freed and discharged from all interests, rights and obligations created by the company in the lease or in relation to the lease.

(6) For the purposes of this section a heritable security—

(a) is duly recorded if it is recorded in the Register of Sasines, and

(b) is duly registered if registered in accordance with the **[**F1104Land Registration etc. (Scotland) Act 2012 (asp 5)**]**.

Textual Amendments

F1104 Words in s. 1022(6)(b) substituted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **sch. 5 para. 50(4)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

Modifications etc. (not altering text)

C1299 Ss. 1012-1023 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **180(10)** (with reg. 189)

C1327 Ss. 1012-1023 applied (with modifications) by Building Societies Act 1986 (c. 53), Sch. 15 para. 57(1)(3) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 87(11)(b)** (with art. 10))

C1328 Ss. 1012-1023 applied by Friendly Societies Act 1992 (c. 40), Sch. 10 para. 68(1) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 133(7)(b)(i)** (with art. 10))

C1329 Ss. 1020-1022 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **54** (with Sch. 1 paras. 22, 34, 35)

Supplementary provisions

1023 Liability for rentcharge on company's land after dissolution

(1) This section applies where on the dissolution of a company land in England and Wales or Northern Ireland that is subject to a rentcharge vests by operation of law in the Crown or any other person ("the proprietor").

(2) Neither the proprietor nor his successors in title are subject to any personal liability in respect of sums becoming due under the rentcharge, except sums becoming due after the proprietor, or some person claiming under or through him, has taken possession or control of the land or has entered into occupation of it.

(3) In this section "company" includes any body corporate.

Modifications etc. (not altering text)

C1299 Ss. 1012-1023 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **180(10)** (with reg. 189)

C1330 Ss. 1012-1023 applied (with modifications) by Building Societies Act 1986 (c. 53), Sch. 15 para. 57(1)(3) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 87(11)(b)** (with art. 10))

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C1331 Ss. 1012-1023 applied by Friendly Societies Act 1992 (c. 40), Sch. 10 para. 68(1) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 133(7)(b)(i)** (with art. 10))

C1332 S. 1023 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **55** (with Sch. 1 paras. 22, 34, 35)

CHAPTER 3

RESTORATION TO THE REGISTER

Administrative restoration to the register

1024 Application for administrative restoration to the register

(1) An application may be made to the registrar to restore to the register a company that has been struck off the register under section 1000 or 1001 (power of registrar to strike off defunct company).

(2) An application under this section may be made whether or not the company has in consequence been dissolved.

(3) An application under this section may only be made by a former director or former member of the company.

(4) An application under this section may not be made after the end of the period of six years from the date of the dissolution of the company.

For this purpose an application is made when it is received by the registrar.

Modifications etc. (not altering text)

C1333 Ss. 1024-1028 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **56**

1025 Requirements for administrative restoration

(1) On an application under section 1024 the registrar shall restore the company to the register if, and only if, the following conditions are met.

(2) The first condition is that the company was carrying on business or in operation at the time of its striking off.

(3) The second condition is that, if any property or right previously vested in or held on trust for the company has vested as *bona vacantia*, the Crown representative has signified to the registrar in writing consent to the company's restoration to the register.

(4) It is the applicant's responsibility to obtain that consent and to pay any costs (in Scotland, expenses) of the Crown representative—

(a) in dealing with the property during the period of dissolution, or

(b) in connection with the proceedings on the application,

that may be demanded as a condition of giving consent.

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(5) The third condition is that the applicant has—

(a) delivered to the registrar such documents relating to the company as are necessary to bring up to date the records kept by the registrar, and

(b) paid any penalties under section 453 or corresponding earlier provisions (civil penalty for failure to deliver accounts) that were outstanding at the date of dissolution or striking off.

(6) In this section the "Crown representative" means—

(a) in relation to property vested in the Duchy of Lancaster, the Solicitor to that Duchy;

(b) in relation to property vested in the Duke of Cornwall, the Solicitor to the Duchy of Cornwall;

(c) in relation to property in Scotland, the Queen's and Lord Treasurer's Remembrancer;

(d) in relation to other property, the Treasury Solicitor.

Modifications etc. (not altering text)

C1334 Ss. 1024-1028 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **56**

1026 Application to be accompanied by statement of compliance

(1) An application under section 1024 (application for administrative restoration to the register) must be accompanied by a statement of compliance.

(2) The statement of compliance required is a statement—

(a) that the person making the application has standing to apply (see subsection (3) of that section), and

(b) that the requirements for administrative restoration (see section 1025) are met.

(3) The registrar may accept the statement of compliance as sufficient evidence of those matters.

Modifications etc. (not altering text)

C1335 Ss. 1024-1028 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **56**

1027 Registrar's decision on application for administrative restoration

(1) The registrar must give notice to the applicant of the decision on an application under section 1024 (application for administrative restoration to the register).

(2) If the decision is that the company should be restored to the register, the restoration takes effect as from the date that notice is sent.

(3) In the case of such a decision, the registrar must—

(a) enter on the register a note of the date as from which the company's restoration to the register takes effect, and

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(b) cause notice of the restoration to be published in the Gazette.

(4) The notice under subsection (3)(b) must state—

(a) the name of the company or, if the company is restored to the register under a different name (see section 1033), that name and its former name,

(b) the company's registered number, and

(c) the date as from which the restoration of the company to the register takes effect.

Modifications etc. (not altering text)

C1336 Ss. 1024-1028 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **56**

1028 Effect of administrative restoration

(1) The general effect of administrative restoration to the register is that the company is deemed to have continued in existence as if it had not been dissolved or struck off the register.

(2) The company is not liable to a penalty under section 453 or any corresponding earlier provision (civil penalty for failure to deliver accounts) for a financial year in relation to which the period for filing accounts and reports ended—

(a) after the date of dissolution or striking off, and

(b) before the restoration of the company to the register.

(3) The court may give such directions and make such provision as seems just for placing the company and all other persons in the same position (as nearly as may be) as if the company had not been dissolved or struck off the register.

(4) An application to the court for such directions or provision may be made any time within three years after the date of restoration of the company to the register.

Modifications etc. (not altering text)

C1337 Ss. 1024-1028 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **56**

[F1105 1028A Administrative restoration of company with share warrants

(1) This section applies in relation to a company which has been struck off the register under section 1000 or 1001 and which, at the time it was struck off, had any share warrant in issue.

(2) If the registrar restores the company to the register under section 1025, the share warrant and the shares specified in it are cancelled with effect from the date the restoration takes effect.

(3) If as a result of subsection (2) the company has no issued share capital, the company must, before the end of the period of one month beginning with the date the restoration takes effect, allot at least one share in the company; and section 549(1) does not apply to such an allotment.

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(4) The company must, before the end of the period of 15 days beginning with the date the restoration takes effect, deliver a statement of capital to the registrar.

(5) Subsection (4) does not apply in a case where the company is required under subsection (3) to make an allotment (because in such a case section 555 will apply).

(6) The statement of capital must state with respect to the company's share capital as reduced by the cancellation of the share warrant and the shares specified in it—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

(c) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and

(d) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class.

(7) Where a share warrant is cancelled in accordance with subsection (2), the company must, as soon as reasonably practicable—

(a) enter the date the cancellation takes effect in its register of members, or

(b) where an election is in force under section 128B of the Companies Act 2006 (option to keep membership information on central register) in respect of the company, deliver that information to the registrar as if it were information required to be delivered under section 128E of that Act.

(8) Subsection (9) applies where—

(a) any property or right previously vested in or held on trust for the company in respect of any share specified in a share warrant has vested as *bona vacantia* (see section 1012), and

(b) the warrant and the share are cancelled on the restoration of the company in accordance with this section.

(9) On restoration of the company, that property or right—

(a) may not be returned to the company, and

(b) accordingly, remains vested as *bona vacantia* .

(10) If default is made in complying with subsection (3) or (4), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

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

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

(b) on summary conviction—

(i) in England and Wales, to a fine;

(ii) in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.**]**

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Textual Amendments

F1105 S. 1028A inserted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 27(1)** (with Sch. 4 para. 27(2), (3))

Restoration to the register by the court

1029 Application to court for restoration to the register

(1) An application may be made to the court to restore to the register a company—

(a) that has been dissolved under Chapter 9 of Part 4 of the Insolvency Act 1986 (c. 45) or Chapter 9 of Part 5 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) (dissolution of company after winding up),

(b) that is deemed to have been dissolved under paragraph 84(6) of Schedule B1 to that Act or paragraph 85(6) of Schedule B1 to that Order (dissolution of company following administration), or

(c) that has been struck off the register—

(i) under section 1000 or 1001 (power of registrar to strike off defunct company), or

(ii) under section 1003 (voluntary striking off),

whether or not the company has in consequence been dissolved.

(2) An application under this section may be made by—

(a) the Secretary of State,

(b) any former director of the company,

(c) any person having an interest in land in which the company had a superior or derivative interest,

(d) any person having an interest in land or other property—

(i) that was subject to rights vested in the company, or

(ii) that was benefited by obligations owed by the company,

(e) any person who but for the company's dissolution would have been in a contractual relationship with it,

(f) any person with a potential legal claim against the company,

(g) any manager or trustee of a pension fund established for the benefit of employees of the company,

(h) any former member of the company (or the personal representatives of such a person),

(i) any person who was a creditor of the company at the time of its striking off or dissolution,

(j) any former liquidator of the company,

(k) where the company was struck off the register under section 1003 (voluntary striking off), any person of a description specified by regulations under section 1006(1)(f) or 1007(2)(f) (persons entitled to notice of application for voluntary striking off),

or by any other person appearing to the court to have an interest in the matter.

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Modifications etc. (not altering text)

C1338 Ss. 1029-1032 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **57** (with Sch. 1 paras. 24, 25, 34, 35)

1030 When application to the court may be made

(1) An application to the court for restoration of a company to the register may be made at any time for the **[**[F1106]purpose of—

(a) bringing**]** proceedings against the company for damages for personal **[**[F1107]injury;

(b) an insurer (within the meaning of the Third Parties (Rights Against Insurers) Act 2010) bringing proceedings against a third party in the name of that company in respect of that company's liability for damages for personal injury.**]**

(2) No order shall be made on such an application if it appears to the court that the proceedings would fail by virtue of any enactment as to the time within which proceedings must be brought.

(3) In making that decision the court must have regard to its power under section 1032(3) (power to give consequential directions etc) to direct that the period between the dissolution (or striking off) of the company and the making of the order is not to count for the purposes of any such enactment.

(4) In any other case an application to the court for restoration of a company to the register may not be made after the end of the period of six years from the date of the dissolution of the company, subject as follows.

(5) In a case where—

(a) the company has been struck off the register under section 1000 or 1001 (power of registrar to strike off defunct company),

(b) an application to the registrar has been made under section 1024 (application for administrative restoration to the register) within the time allowed for making such an application, and

(c) the registrar has refused the application,

an application to the court under this section may be made within 28 days of notice of the registrar's decision being issued by the registrar, even if the period of six years mentioned in subsection (4) above has expired.

(6) For the purposes of this section—

(a) "personal injury" includes any disease and any impairment of a person's physical or mental condition; and

(b) references to damages for personal injury include—

(i) any sum claimed by virtue of section 1(2)(c) of the Law Reform (Miscellaneous Provisions) Act 1934 (c. 41) or section 14(2)(c) of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937 (1937 c. 9 (N.I.)) (funeral expenses)), and

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(ii) damages under the Fatal Accidents Act 1976 (c. 30), the **[**[F1108]Damages (Scotland) Act 2011 (asp 7)**]** or the Fatal Accidents (Northern Ireland) Order 1977 (S.I. 1977/1251 (N.I. 18)).

Textual Amendments

F1106 Words in s. 1030(1) substituted (23.11.2018) by The Third Parties (Rights Against Insurers) Act 2010 (Consequential Amendment of Companies Act 2006) Regulations 2018 (S.I. 2018/1162), regs. 1, **2(a)**

F1107 Words in s. 1030(1) substituted (23.11.2018) by The Third Parties (Rights Against Insurers) Act 2010 (Consequential Amendment of Companies Act 2006) Regulations 2018 (S.I. 2018/1162), regs. 1, **2(b)**

F1108 Words in s. 1030(6)(b)(ii) substituted (S.) (7.7.2011) by Damages (Scotland) Act 2011 (asp 7), ss. 15, 19(3)(4), **Sch. 1 para. 9** (with ss. 17, 19(2)); S.S.I. 2011/268, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C1339 Ss. 1029-1032 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **57** (with Sch. 1 paras. 24, 25, 34, 35)

1031 Decision on application for restoration by the court

(1) On an application under section 1029 the court may order the restoration of the company to the register—

(a) if the company was struck off the register under section 1000 or 1001 (power of registrar to strike off defunct companies) and the company was, at the time of the striking off, carrying on business or in operation;

(b) if the company was struck off the register under section 1003 (voluntary striking off) and any of the requirements of sections 1004 to 1009 was not complied with;

(c) if in any other case the court considers it just to do so.

(2) If the court orders restoration of the company to the register, the restoration takes effect on a copy of the court's order being delivered to the registrar.

(3) The registrar must cause to be published in the Gazette notice of the restoration of the company to the register.

(4) The notice must state—

(a) the name of the company or, if the company is restored to the register under a different name (see section 1033), that name and its former name,

(b) the company's registered number, and

(c) the date on which the restoration took effect.

Modifications etc. (not altering text)

C1340 Ss. 1029-1032 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **57** (with Sch. 1 paras. 24, 25, 34, 35)

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1032 Effect of court order for restoration to the register

(1) The general effect of an order by the court for restoration to the register is that the company is deemed to have continued in existence as if it had not been dissolved or struck off the register.

(2) The company is not liable to a penalty under section 453 or any corresponding earlier provision (civil penalty for failure to deliver accounts) for a financial year in relation to which the period for filing accounts and reports ended—

(a) after the date of dissolution or striking off, and

(b) before the restoration of the company to the register.

(3) The court may give such directions and make such provision as seems just for placing the company and all other persons in the same position (as nearly as may be) as if the company had not been dissolved or struck off the register.

(4) The court may also give directions as to—

(a) the delivery to the registrar of such documents relating to the company as are necessary to bring up to date the records kept by the registrar,

(b) the payment of the costs (in Scotland, expenses) of the registrar in connection with the proceedings for the restoration of the company to the register,

(c) where any property or right previously vested in or held on trust for the company has vested as *bona vacantia*, the payment of the costs (in Scotland, expenses) of the Crown representative—

(i) in dealing with the property during the period of dissolution, or

(ii) in connection with the proceedings on the application.

(5) In this section the "Crown representative" means—

(a) in relation to property vested in the Duchy of Lancaster, the Solicitor to that Duchy;

(b) in relation to property vested in the Duke of Cornwall, the Solicitor to the Duchy of Cornwall;

(c) in relation to property in Scotland, the Queen's and Lord Treasurer's Remembrancer;

(d) in relation to other property, the Treasury Solicitor.

Modifications etc. (not altering text)

C1341 Ss. 1029-1032 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **57** (with Sch. 1 paras. 24, 25, 34, 35)

[F1109 1032A Restoration by court of company with share warrants

(1) This section applies in relation to a company falling within section 1029(1) if, at the time it was dissolved, deemed to be dissolved or (as the case may be) struck off, it had any share warrant in issue.

(2) If the court orders the restoration of the company to the register, the order must also cancel the share warrant and the shares specified in it with effect from the date the restoration takes effect.

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(3) If as a result of subsection (2) the company has no issued share capital, the company must, before the end of the period of one month beginning with the date the restoration takes effect, allot at least one share in the company; and section 549(1) does not apply to such an allotment.

(4) Subsection (6) applies in a case where—

(a) the application under section 1029 was made by a person mentioned in subsection (2)(b) or (h) of that section, or

(b) the court order specifies that it applies.

(5) But subsection (6) does not apply in any case where the company is required under subsection (3) to make an allotment (because in such a case section 555 will apply).

(6) In a case where this subsection applies, the company must, before the end of the period of 15 days beginning with the date the restoration takes effect, deliver a statement of capital to the registrar.

(7) The statement of capital must state with respect to the company's share capital as reduced by the cancellation of the share warrant and the shares specified in it—

(a) the total number of shares of the company,

(b) the aggregate nominal value of those shares,

(c) the aggregate amount (if any) unpaid on those shares (whether on account of their nominal value or by way of premium), and

(d) for each class of shares—

(i) prescribed particulars of the rights attached to the shares,

(ii) the total number of shares of that class, and

(iii) the aggregate nominal value of shares of that class.

(8) Where a share warrant is cancelled by an order as mentioned in subsection (2), the company must, as soon as reasonably practicable—

(a) enter the date the cancellation takes effect in its register of members, or

(b) where an election is in force under section 128B of the Companies Act 2006 (option to keep membership information on central register) in respect of the company, deliver that information to the registrar as if it were information required to be delivered under section 128E of that Act.

(9) Subsection (10) applies where—

(a) any property or right previously vested in or held on trust for the company in respect of any share specified in a share warrant has vested as *bona vacantia* (see section 1012), and

(b) the warrant and the share are cancelled on the restoration of the company in accordance with this section.

(10) On restoration of the company, that property or right—

(a) may not be returned to the company, and

(b) accordingly, remains vested as *bona vacantia* .

(11) If default is made in complying with subsection (3) or (6), an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

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For this purpose a shadow director is treated as an officer of the company.

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

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

(b) on summary conviction—

(i) in England and Wales, to a fine;

(ii) in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.**]**

Textual Amendments

F1109 S. 1032A inserted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 28(1)** (with Sch. 4 para. 28(2), (3))

Supplementary provisions

1033 Company's name on restoration

(1) A company is restored to the register with the name it had before it was dissolved or struck off the register, subject to the following provisions.

(2) If at the date of restoration the company could not be registered under its former name without contravening section 66 (name not to be the same as another in the registrar's index of company names), it must be restored to the register—

(a) under another name specified—

(i) in the case of administrative restoration, in the application to the registrar, or

(ii) in the case of restoration under a court order, in the court's order, or

(b) as if its registered number was also its name.

References to a company's being registered in a name, and to registration in that context, shall be read as including the company's being restored to the register.

(3) If a company is restored to the register under a name specified in the application to the registrar, the provisions of—

section 80 (change of name: registration and issue of new certificate of incorporation), and

section 81 (change of name: effect),

apply as if the application to the registrar were notice of a change of name.

(4) If a company is restored to the register under a name specified in the court's order, the provisions of—

section 80 (change of name: registration and issue of new certificate of incorporation), and

section 81 (change of name: effect),

apply as if the copy of the court order delivered to the registrar were notice of a change a name.

(5) If the company is restored to the register as if its registered number was also its name—

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(a) the company must change its name within 14 days after the date of the restoration,

(b) the change may be made by resolution of the directors (without prejudice to any other method of changing the company's name),

(c) the company must give notice to the registrar of the change, and

(d) sections 80 and 81 apply as regards the registration and effect of the change.

(6) If the company fails to comply with subsection (5)(a) or (c) an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

(7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding **[**F1110one-tenth of level 5 on the standard scale**][**F1110one-tenth of the greater of £5,000 or level 4 on the standard scale**]**.

Textual Amendments

F1110 Words in s. 1033(7) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(22)** (with reg. 5(1))

Modifications etc. (not altering text)

C1342 S. 1033 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **58** (with Sch. 1 paras. 26, 34, 35) (as amended (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 14(5)** (with reg. 5(1)))

1034 Effect of restoration to the register where property has vested as bona vacantia

(1) The person in whom any property or right is vested by section 1012 (property of dissolved company to be *bona vacantia*) may dispose of, or of an interest in, that property or right despite the fact that the company may be restored to the register under this Chapter.

(2) If the company is restored to the register—

(a) the restoration does not affect the disposition (but without prejudice to its effect in relation to any other property or right previously vested in or held on trust for the company), and

(b) the Crown or, as the case may be, the Duke of Cornwall shall pay to the company an amount equal to—

(i) the amount of any consideration received for the property or right or, as the case may be, the interest in it, or

(ii) the value of any such consideration at the time of the disposition,

or, if no consideration was received an amount equal to the value of the property, right or interest disposed of, as at the date of the disposition.

(3) There may be deducted from the amount payable under subsection (2)(b) the reasonable costs of the Crown representative in connection with the disposition (to

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the extent that they have not been paid as a condition of administrative restoration or pursuant to a court order for restoration).

(4) Where a liability accrues under subsection (2) in respect of any property or right which before the restoration of the company to the register had accrued as *bona vacantia* to the Duchy of Lancaster, the Attorney General of that Duchy shall represent Her Majesty in any proceedings arising in connection with that liability.

(5) Where a liability accrues under subsection (2) in respect of any property or right which before the restoration of the company to the register had accrued as *bona vacantia* to the Duchy of Cornwall, such persons as the Duke of Cornwall (or other possessor for the time being of the Duchy) may appoint shall represent the Duke (or other possessor) in any proceedings arising out of that liability.

(6) In this section the "Crown representative" means—

(a) in relation to property vested in the Duchy of Lancaster, the Solicitor to that Duchy;

(b) in relation to property vested in the Duke of Cornwall, the Solicitor to the Duchy of Cornwall;

(c) in relation to property in Scotland, the Queen's and Lord Treasurer's Remembrancer;

(d) in relation to other property, the Treasury Solicitor.

Modifications etc. (not altering text)

C1343 S. 1034 applied (with modifications) by Building Societies Act 1986 (c. 53), Sch. 15 para. 57(1)(3) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 87(11)(b)** (with art. 10))

C1344 S. 1034 applied by Friendly Societies Act 1992 (c. 40), Sch. 10 para. 68(1) (as substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 133(7)(b)(i)** (with art. 10))

C1345 S. 1034 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **58** (with Sch. 1 paras. 26, 34, 35)

C1346 S. 1034 applied (with modifications) (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **185(5)** (with reg. 189)

PART 32

COMPANY INVESTIGATIONS: AMENDMENTS

Modifications etc. (not altering text)

C1347 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

1035 Powers of Secretary of State to give directions to inspectors

(1) In Part 14 of the Companies Act 1985 (c. 6) (investigation of companies and their affairs), after section 446 insert—

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"Powers of Secretary of State to give directions to inspectors

446A General powers to give directions

(1) In exercising his functions an inspector shall comply with any direction given to him by the Secretary of State under this section.

(2) The Secretary of State may give an inspector appointed under section 431, 432(2) or 442(1) a direction—

(a) as to the subject matter of his investigation (whether by reference to a specified area of a company's operation, a specified transaction, a period of time or otherwise), or

(b) which requires the inspector to take or not to take a specified step in his investigation.

(3) The Secretary of State may give an inspector appointed under any provision of this Part a direction requiring him to secure that a specified report under section 437—

(a) includes the inspector's views on a specified matter,

(b) does not include any reference to a specified matter,

(c) is made in a specified form or manner, or

(d) is made by a specified date.

(4) A direction under this section—

(a) may be given on an inspector's appointment,

(b) may vary or revoke a direction previously given, and

(c) may be given at the request of an inspector.

(5) In this section—

(a) a reference to an inspector's investigation includes any investigation he undertakes, or could undertake, under section 433(1) (power to investigate affairs of holding company or subsidiary);

(b) "specified" means specified in a direction under this section.

446B Direction to terminate investigation

(1) The Secretary of State may direct an inspector to take no further steps in his investigation.

(2) The Secretary of State may give a direction under this section to an inspector appointed under section 432(1) or 442(3) only on the grounds that it appears to him that—

(a) matters have come to light in the course of the inspector's investigation which suggest that a criminal offence has been committed, and

(b) those matters have been referred to the appropriate prosecuting authority.

(3) Where the Secretary of State gives a direction under this section, any direction already given to the inspector under section 437(1) to produce an interim

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report, and any direction given to him under section 446A(3) in relation to such a report, shall cease to have effect.

(4) Where the Secretary of State gives a direction under this section, the inspector shall not make a final report to the Secretary of State unless—

(a) the direction was made on the grounds mentioned in subsection (2) and the Secretary of State directs the inspector to make a final report to him, or

(b) the inspector was appointed under section 432(1) (appointment in pursuance of order of the court).

(5) An inspector shall comply with any direction given to him under this section.

(6) In this section, a reference to an inspector's investigation includes any investigation he undertakes, or could undertake, under section 433(1) (power to investigate affairs of holding company or subsidiary).".

(2) In section 431 of that Act (inspectors' powers during investigation) in subsection (1) for "report on them in such manner as he may direct" substitute " report the result of their investigations to him ".

(3) In section 432 of that Act (other company investigations) in subsection (1) for "report on them in such manner as he directs" substitute " report the result of their investigations to him ".

(4) In section 437 of that Act (inspectors' reports)—

(a) in subsection (1) omit the second sentence, and

(b) subsections (1B) and (1C) shall cease to have effect.

(5) In section 442 of that Act (power to investigate company ownership), omit subsection (2).

1036 Resignation, removal and replacement of inspectors

After section 446B of the Companies Act 1985 (c. 6) (inserted by section 1035 above) insert—

"Resignation, removal and replacement of inspectors

446C Resignation and revocation of appointment

(1) An inspector may resign by notice in writing to the Secretary of State.

(2) The Secretary of State may revoke the appointment of an inspector by notice in writing to the inspector.

446D Appointment of replacement inspectors

(1) Where—

(a) an inspector resigns,

(b) an inspector's appointment is revoked, or

(c) an inspector dies,

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the Secretary of State may appoint one or more competent inspectors to continue the investigation.

(2) An appointment under subsection (1) shall be treated for the purposes of this Part (apart from this section) as an appointment under the provision of this Part under which the former inspector was appointed.

(3) The Secretary of State must exercise his power under subsection (1) so as to secure that at least one inspector continues the investigation.

(4) Subsection (3) does not apply if—

(a) the Secretary of State could give any replacement inspector a direction under section 446B (termination of investigation), and

(b) such a direction would (under subsection (4) of that section) result in a final report not being made.

(5) In this section, references to an investigation include any investigation the former inspector conducted under section 433(1) (power to investigate affairs of holding company or subsidiary).".

1037 Power to obtain information from former inspectors etc

(1) After section 446D of the Companies Act 1985 (c. 6) (inserted by section 1036 above) insert—

"Power to obtain information from former inspectors etc

446E Obtaining information from former inspectors etc

(1) This section applies to a person who was appointed as an inspector under this Part—

(a) who has resigned, or

(b) whose appointment has been revoked.

(2) This section also applies to an inspector to whom the Secretary of State has given a direction under section 446B (termination of investigation).

(3) The Secretary of State may direct a person to whom this section applies to produce documents obtained or generated by that person during the course of his investigation to—

(a) the Secretary of State, or

(b) an inspector appointed under this Part.

(4) The power under subsection (3) to require production of a document includes power, in the case of a document not in hard copy form, to require the production of a copy of the document—

(a) in hard copy form, or

(b) in a form from which a hard copy can be readily obtained.

(5) The Secretary of State may take copies of or extracts from a document produced in pursuance of this section.

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(6) The Secretary of State may direct a person to whom this section applies to inform him of any matters that came to that person's knowledge as a result of his investigation.

(7) A person shall comply with any direction given to him under this section.

(8) In this section—

(a) references to the investigation of a former inspector or inspector include any investigation he conducted under section 433(1) (power to investigate affairs of holding company or subsidiary), and

(b) "document" includes information recorded in any form.".

(2) In section 451A of that Act (disclosure of information by Secretary of State or inspector), in subsection (1)(a) for "446" substitute " 446E ".

(3) In section 452(1) of that Act (privileged information) for "446" substitute " 446E ".

1038 Power to require production of documents

(1) In section 434 of the Companies Act 1985 (c. 6) (production of documents and evidence to inspectors), for subsection (6) substitute—

"(6) In this section "document" includes information recorded in any form.

(7) The power under this section to require production of a document includes power, in the case of a document not in hard copy form, to require the production of a copy of the document—

(a) in hard copy form, or

(b) in a form from which a hard copy can be readily obtained.

(8) An inspector may take copies of or extracts from a document produced in pursuance of this section.".

(2) In section 447 of the Companies Act 1985 (power of Secretary of State to require documents and information), for subsection (9) substitute—

"(9) The power under this section to require production of a document includes power, in the case of a document not in hard copy form, to require the production of a copy of the document—

(a) in hard copy form, or

(b) in a form from which a hard copy can be readily obtained.".

F1111 1039 Disqualification orders: consequential amendments

. . . . . .

Textual Amendments

F1111 S. 1039 omitted (26.5.2015 for specified purposes, 1.10.2015 in so far as not already in force) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 7 para. 25**; S.I. 2015/1329, reg. 3(c); S.I. 2015/1689, reg. 2(g)

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PART 33

UK COMPANIES NOT FORMED UNDER COMPANIES LEGISLATION

Modifications etc. (not altering text)

C1348 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

CHAPTER 1

COMPANIES NOT FORMED UNDER COMPANIES LEGISLATION BUT AUTHORISED TO REGISTER

1040 Companies authorised to register under this Act

(1) This section applies to—

(a) any company that was in existence on 2nd November 1862 (including any company registered under the Joint Stock Companies Acts), and

(b) any company formed after that date (whether before or after the commencement of this Act)—

(i) in pursuance of an Act of Parliament other than this Act or any of the former Companies Acts,

(ii) in pursuance of letters patent, or

(iii) that is otherwise duly constituted according to law.

[[F1112]other than a company registered under Part 4 of the Risk Transformation Regulations 2017.**]**

(2) Any such company may on making application register under this Act.

(3) Subject to the following provisions, it may register as an unlimited company, as a company limited by shares or as a company limited by guarantee.

(4) A company having the liability of its members limited by Act of Parliament or letters patent—

(a) may not register under this section unless it is a joint stock company, and

(b) may not register under this section as an unlimited company or a company limited by guarantee.

(5) A company that is not a joint stock company may not register under this section as a company limited by shares.

(6) The registration of a company under this section is not invalid by reason that it has taken place with a view to the company's being wound up.

Textual Amendments

F1112 Words in s. 1040(1)(b) inserted (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), reg. 1(2), **Sch. 4 para. 4(a)** (with reg. 189)

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1041 Definition of "joint stock company"

(1) For the purposes of section 1040 (companies authorised to register under this Act) "joint stock company" means a company—

(a) having a permanent paid-up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and

(b) formed on the principle of having for its members the holders of those shares or that stock, and no other persons.

(2) Such a company when registered with limited liability under this Act is deemed a company limited by shares.

1042 Power to make provision by regulations

(1) The Secretary of State may make provision by regulations—

(a) for and in connection with registration under section 1040 (companies authorised to register under this Act), and

(b) as to the application to companies so registered of the provisions of the Companies Acts.

(2) Without prejudice to the generality of that power, regulations under this section may make provision corresponding to any provision formerly made by Chapter 2 of Part 22 of the Companies Act 1985 (c. 6).

(3) Regulations under this section are subject to negative resolution procedure.

Commencement Information

I348 S. 1042 wholly in force at 1.10.2009; s. 1042 not in force at Royal Assent, see s. 1300; s. 1042 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1042 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(p)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

CHAPTER 2

UNREGISTERED COMPANIES

1043 Unregistered companies

(1) This section applies to bodies corporate incorporated in and having a principal place of business in the United Kingdom, other than—

(a) bodies incorporated by, or registered under, a public general Act of Parliament;

(b) bodies not formed for the purpose of carrying on a business that has for its object the acquisition of gain by the body or its individual members;

(c) bodies for the time being exempted from this section by direction of the Secretary of State;

(d) open-ended investment companies.

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[F1113(e) protected cell companies registered under Part 4 of the Risk Transformation Regulations 2017.**]**

(2) The Secretary of State may make provision by regulations applying specified provisions of the Companies Acts to all, or any specified description of, the bodies to which this section applies.

(3) The regulations may provide that the specified provisions of the Companies Acts apply subject to any specified limitations and to such adaptations and modifications (if any) as may be specified.

(4) This section does not—

(a) repeal or revoke in whole or in part any enactment, royal charter or other instrument constituting or regulating any body in relation to which provisions of the Companies Acts are applied by regulations under this section, or

(b) restrict the power of Her Majesty to grant a charter in lieu or supplementary to any such charter.

But in relation to any such body the operation of any such enactment, charter or instrument is suspended in so far as it is inconsistent with any of those provisions as they apply for the time being to that body.

(5) In this section "specified" means specified in the regulations.

(6) Regulations under this section are subject to negative resolution procedure.

Textual Amendments

F1113 S. 1043(1)(e) inserted (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), reg. 1(2), **Sch. 4 para. 4(b)** (with reg. 189)

Commencement Information

I349 S. 1043 wholly in force at 6.4.2007; s. 1043 not in force at Royal Assent, see s. 1300; s. 1043 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)); s. 1043 wholly in force at 6.4.2007 by S.I. 2007/1093 {art. 2(1)(c)}

PART 34

OVERSEAS COMPANIES

Modifications etc. (not altering text)

C1349 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

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Introductory

1044 Overseas companies

In the Companies Acts an "overseas company" means a company incorporated outside the United Kingdom.

1045 Company contracts and execution of documents by companies

(1) The Secretary of State may make provision by regulations applying sections 43 to 52 (formalities of doing business and other matters) to overseas companies, subject to such exceptions, adaptations or modifications as may be specified in the regulations.

(2) Regulations under this section are subject to negative resolution procedure.

Commencement Information

I350 S. 1045 wholly in force at 1.10.2009; s. 1045 not in force at Royal Assent, see s. 1300; s. 1045 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1045 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(q)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Registration of particulars

1046 Duty to register particulars

(1) The Secretary of State may make provision by regulations requiring an overseas company—

(a) to deliver to the registrar for registration a return containing specified particulars, and

(b) to deliver to the registrar with the return specified documents.

(2) The regulations—

(a) must, in the case of a company other than a Gibraltar company, require the company to register particulars if the company opens a branch in the United Kingdom, and

(b) may, in the case of a Gibraltar company, require the company to register particulars if the company opens a branch in the United Kingdom, and

(c) may, in any case, require the registration of particulars in such other circumstances as may be specified.

(3) In subsection (2)—

"branch" means a branch within the meaning of the Eleventh Company Law Directive (89/666/EEC);

"Gibraltar company" means a company incorporated in Gibraltar.

(4) The regulations may provide that where a company has registered particulars under this section and any alteration is made—

(a) in the specified particulars, or

(b) in any document delivered with the return,

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the company must deliver to the registrar for registration a return containing specified particulars of the alteration.

(5) The regulations may make provision—

(a) requiring the return under this section to be delivered for registration to the registrar for a specified part of the United Kingdom, and

(b) requiring it to be so delivered before the end of a specified period.

(6) The regulations may make different provision according to—

(a) the place where the company is incorporated, and

(b) the activities carried on (or proposed to be carried on) by it.

This is without prejudice to the general power to make different provision for different cases.

(7) In this section "specified" means specified in the regulations.

(8) Regulations under this section are subject to affirmative resolution procedure.

Commencement Information

I351 S. 1046 wholly in force at 1.10.2009; s. 1046 not in force at Royal Assent, see s. 1300; s. 1046 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1046 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(q)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1047 Registered name of overseas company

(1) Regulations under section 1046 (duty to register particulars) must require an overseas company that is required to register particulars to register its name.

(2) This may be—

(a) the company's corporate name (that is, its name under the law of the country or territory in which it is incorporated) or

(b) an alternative name specified in accordance with section 1048.

F1114(3) . . . . . .

(4) F1115... The following provisions of Part 5 (a company's name) apply in relation to the registration of the name of an overseas company—

(a) section 53 (prohibited names);

(b) sections 54 to 56 (sensitive words and expressions);

[F1116(ba) section 57 (permitted characters etc);**]**

(c) section 65 (inappropriate use of indications of company type or legal form);

(d) sections 66 to 74 (similarity to other names);

(e) section 75 (provision of misleading information etc);

(f) section 76 (misleading indication of activities).

F1117(5) . . . . . .

(6) Any reference in the provisions mentioned in subsection (4) F1118... to a change of name shall be read as a reference to registration of a different name under section 1048.

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Textual Amendments

F1114 S. 1047(3) omitted (31.12.2020) by virtue of The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 14(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1115 Words in s. 1047(4) omitted (31.12.2020) by virtue of The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 14(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F1116 S. 1047(4)(ba) inserted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 14(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F1117 S. 1047(5) omitted (31.12.2020) by virtue of The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 14(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F1118 Words in s. 1047(6) omitted (31.12.2020) by virtue of The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 14(d)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I352 S. 1047 wholly in force at 1.10.2009; s. 1047 not in force at Royal Assent, see s. 1300; s. 1047 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1047 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(q)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1048 Registration under alternative name

(1) An overseas company that is required to register particulars under section 1046 may at any time deliver to the registrar for registration a statement specifying a name, other than its corporate name, under which it proposes to carry on business in the United Kingdom.

(2) An overseas company that has registered an alternative name may at any time deliver to the registrar of companies for registration a statement specifying a different name under which it proposes to carry on business in the United Kingdom (which may be its corporate name or a further alternative) in substitution for the name previously registered.

(3) The alternative name for the time being registered under this section is treated for all purposes of the law applying in the United Kingdom as the company's corporate name.

(4) This does not—

(a) affect the references in this section or section 1047 to the company's corporate name,

(b) affect any rights or obligation of the company, or

(c) render defective any legal proceedings by or against the company.

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

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Other requirements

1049 Accounts and reports: general

(1) The Secretary of State may make provision by regulations requiring an overseas company that is required to register particulars under section 1046—

(a) to prepare the like accounts[F1119and strategic report] and directors' report, and

(b) to cause to be prepared such an auditor's report,

as would be required if the company were formed and registered under this Act.

(2) The regulations may for this purpose apply, with or without modifications, all or any of the provisions of—

Part 15 (accounts and reports), and

Part 16 (audit).

(3) The Secretary of State may make provision by regulations requiring an overseas company to deliver to the registrar copies of—

(a) the accounts and reports prepared in accordance with the regulations, or

(b) the accounts and reports that it is required to prepare and have audited under the law of the country in which it is incorporated.

(4) Regulations under this section are subject to negative resolution procedure.

Textual Amendments

F1119 Words in s. 1049(1)(a) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 24**

Commencement Information

I353 S. 1049 wholly in force at 1.10.2009; s. 1049 not in force at Royal Assent, see s. 1300; s. 1049 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1049 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(q)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1050 Accounts and reports: credit or financial institutions

(1) This section applies to a credit or financial institution—

(a) that is incorporated or otherwise formed outside the United Kingdom and Gibraltar,

(b) whose head office is outside the United Kingdom and Gibraltar, and

(c) that has a branch in the United Kingdom.

(2) In subsection (1) "branch" means a place of business that forms a legally dependent part of the institution and conducts directly all or some of the operations inherent in its business.

(3) The Secretary of State may make provision by regulations requiring an institution to which this section applies—

(a) to prepare the like accounts[F1120and strategic report] and directors' report, and

(b) to cause to be prepared such an auditor's report,

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

as would be required if the institution were a company formed and registered under this Act.

(4) The regulations may for this purpose apply, with or without modifications, all or any of the provisions of—

Part 15 (accounts and reports), and

Part 16 (audit).

(5) The Secretary of State may make provision by regulations requiring an institution to which this section applies to deliver to the registrar copies of—

(a) accounts and reports prepared in accordance with the regulations, or

(b) accounts and reports that it is required to prepare and have audited under the law of the country in which the institution has its head office.

(6) Regulations under this section are subject to negative resolution procedure.

Textual Amendments

F1120 Words in s. 1050(3)(a) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 (S.I. 2013/1970), reg. 1(2)(3), **Sch. para. 25**

Commencement Information

I354 S. 1050 wholly in force at 1.10.2009; s. 1050 not in force at Royal Assent, see s. 1300; s. 1050 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1050 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(q)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1051 Trading disclosures

(1) The Secretary of State may by regulations make provision requiring overseas companies carrying on business in the United Kingdom—

(a) to display specified information in specified locations,

(b) to state specified information in specified descriptions of document or communication, and

(c) to provide specified information on request to those they deal with in the course of their business.

(2) The regulations—

(a) shall in every case require a company that has registered particulars under section 1046 to disclose the name registered by it under section 1047, and

(b) may make provision as to the manner in which any specified information is to be displayed, stated or provided.

(3) The regulations may make provision corresponding to that made by—

section 83 (civil consequences of failure to make required disclosure), and

section 84 (criminal consequences of failure to make required disclosure).

(4) In this section "specified" means specified in the regulations.

(5) Regulations under this section are subject to affirmative resolution procedure.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C1350 S. 1051 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **59**

Commencement Information

I355 S. 1051 wholly in force at 1.10.2009; s. 1051 not in force at Royal Assent, see s. 1300; s. 1051 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1051otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(q)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1052 Company charges

(1) The Secretary of State may by regulations make provision about the registration of specified charges over property in the United Kingdom of a registered overseas company.

(2) The power in subsection (1) includes power to make provision about—

(a) a registered overseas company that—

(i) has particulars registered in more than one part of the United Kingdom;

(ii) has property in more than one part of the United Kingdom;

(b) the circumstances in which property is to be regarded, for the purposes of the regulations, as being, or not being, in the United Kingdom or in a particular part of the United Kingdom;

(c) the keeping by a registered overseas company of records and registers about specified charges and their inspection;

(d) the consequences of a failure to register a charge in accordance with the regulations;

(e) the circumstances in which a registered overseas company ceases to be subject to the regulations.

(3) The regulations may for this purpose apply, with or without modifications, any of the provisions of Part 25 (company charges).

(4) The regulations may modify any reference in an enactment to Part 25, or to a particular provision of that Part, so as to include a reference to the regulations or to a specified provision of the regulations.

(5) Regulations under this section are subject to negative resolution procedure.

(6) In this section—

"registered overseas company" means an overseas company that has registered particulars under section 1046(1), and

"specified" means specified in the regulations.

Modifications etc. (not altering text)

C1351 S. 1052 restricted (17.2.2009 for certain purposes, otherwise 21.2.2009) by Banking Act 2001 (c. 1), **s. 252(2)(c)** (with s. 247); S.I. 2009/296, **arts. 2**, 3, Sch.

Status: *Point in time view as at 31/12/2020.*
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Commencement Information

I356 S. 1052 wholly in force at 1.10.2009; s. 1052 not in force at Royal Assent, see s. 1300; s. 1052 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1052 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(q)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1053 Other returns etc

(1) This section applies to overseas companies that are required to register particulars under section 1046.

(2) The Secretary of State may make provision by regulations requiring the delivery to the registrar of returns—

(a) by a company to which this section applies that—

(i) is being wound up, or

(ii) becomes or ceases to be subject to insolvency proceedings, or an arrangement or composition or any analogous proceedings;

(b) by the liquidator of a company to which this section applies.

(3) The regulations may specify—

(a) the circumstances in which a return is to be made,

(b) the particulars to be given in it, and

(c) the period within which it is to be made.

(4) The Secretary of State may make provision by regulations requiring notice to be given to the registrar of the appointment in relation to a company to which this section applies of a judicial factor (in Scotland).

(5) The regulations may include provision corresponding to any provision made by section 1154 of this Act (duty to notify registrar of certain appointments).

(6) Regulations under this section are subject to affirmative resolution procedure.

Commencement Information

I357 S. 1053 wholly in force at 1.10.2009; s. 1053 not in force at Royal Assent, see s. 1300; s. 1053 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1053 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(q)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Supplementary

1054 Offences

(1) Regulations under this Part may specify the person or persons responsible for complying with any specified requirement of the regulations.

(2) Regulations under this Part may make provision for offences, including provision as to—

(a) the person or persons liable in the case of any specified contravention of the regulations, and

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(b) circumstances that are, or are not, to be a defence on a charge of such an offence.

(3) The regulations must not provide—

(a) for imprisonment, or

(b) for the imposition on summary conviction of a fine exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding **[**F1121one-tenth of level 5 on the standard scale**][**F1121one-tenth of the greater of £5,000 or level 4 on the standard scale**]**.

(4) In this section "specified" means specified in the regulations.

Textual Amendments

F1121 Words in s. 1054(3)(b) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 17** (with reg. 5(1))

Commencement Information

I358 S. 1054 wholly in force at 1.10.2009; s. 1054 not in force at Royal Assent, see s. 1300; s. 1054 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1054 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(q)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1055 Disclosure of individual's residential address: protection from disclosure

Where regulations under section 1046 (overseas companies: duty to register particulars) require an overseas company to register particulars of an individual's usual residential address, they must contain provision corresponding to that made by Chapter 8 of Part 10 (directors' residential addresses: protection from disclosure).

Commencement Information

I359 S. 1055 wholly in force at 1.10.2009; s. 1055 not in force at Royal Assent, see s. 1300; s. 1055 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1055 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(q)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1056 Requirement to identify persons authorised to accept service of documents

Regulations under section 1046 (overseas companies: duty to register particulars) must require an overseas company to register—

(a) particulars identifying every person resident in the United Kingdom authorised to accept service of documents on behalf of the company, or

(b) a statement that there is no such person.

Commencement Information

I360 S. 1056 wholly in force at 1.10.2009; s. 1056 not in force at Royal Assent, see s. 1300; s. 1056 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts.

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6, 8, Sch. 5); s. 1056 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(q)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1057 Registrar to whom returns, notices etc to be delivered

(1) This section applies to an overseas company that is required to register or has registered particulars under section 1046 in more than one part of the United Kingdom.

(2) The Secretary of State may provide by regulations that, in the case of such a company, anything authorised or required to be delivered to the registrar under this Part is to be delivered—

(a) to the registrar for each part of the United Kingdom in which the company is required to register or has registered particulars, or

(b) to the registrar for such part or parts of the United Kingdom as may be specified in or determined in accordance with the regulations.

(3) Regulations under this section are subject to negative resolution procedure.

Commencement Information

I361 S. 1057 wholly in force at 1.10.2009; s. 1057 not in force at Royal Assent, see s. 1300; s. 1057 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1057 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(q)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1058 Duty to give notice of ceasing to have registrable presence

(1) The Secretary of State may make provision by regulations requiring an overseas company—

(a) if it has registered particulars following the opening of a branch, in accordance with regulations under section 1046(2)(a) or (b), to give notice to the registrar if it closes that branch;

(b) if it has registered particulars in other circumstances, in accordance with regulations under section 1046(2)(c), to give notice to the registrar if the circumstances that gave rise to the obligation to register particulars cease to obtain.

(2) The regulations must provide for the notice to be given to the registrar for the part of the United Kingdom to which the original return of particulars was delivered.

(3) The regulations may specify the period within which notice must be given.

(4) Regulations under this section are subject to negative resolution procedure.

Commencement Information

I362 S. 1058 wholly in force at 1.10.2009; s. 1058 not in force at Royal Assent, see s. 1300; s. 1058 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1058 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(q)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

1059 Application of provisions in case of relocation of branch

For the purposes of this Part—

(a) the relocation of a branch from one part of the United Kingdom to another counts as the closing of one branch and the opening of another;

(b) the relocation of a branch within the same part of the United Kingdom does not.

PART 35

THE REGISTRAR OF COMPANIES

Modifications etc. (not altering text)

C1352 Pt. 35 applied (with modifications) (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 3 para. 3**; 2020 c. 1, **Sch. 5 para. 1(1)**

C1353 Pt. 35 modified (21.2.2009) by The Banking Act 2009 (Parts 2 and 3 Consequential Amendments) Order 2009 (S.I. 2009/317), **art. 6(1)(3)**

C1354 Pt. 35 applied (with modifications) (8.2.2011) by The Investment Bank Special Administration Regulations 2011 (S.I. 2011/245), reg. 27, **Sch. 6 Pt. 2 para. 5(3)**

C1355 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

[F1122 Scheme of this Part

Textual Amendments

F1122 S. 1059A and preceding cross-heading inserted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 3**

1059A Scheme of this Part

(1) The scheme of this Part is as follows.

(2) The following provisions apply generally (to the registrar, to any functions of the registrar, or to documents delivered to or issued by the registrar under any enactment, as the case may be)—

sections 1060(1) and (2) and 1061 F1123 to 1063 F1124 (the registrar),
sections 1068 to 1071 (delivery of documents to the registrar),
sections 1072 to 1076 (requirements for proper delivery),
sections 1080(1), (4) and (5) and 1092 (keeping and production of records),
section 1083 (preservation of original documents),
[F1125 section 1084A (recording optional information on register),**]**
sections 1108 to 1110 (language requirements: transliteration),
sections 1111 and 1114 to 1119 (supplementary provisions).

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The following provisions apply in relation to companies (to companies or for the purposes of the Companies Acts, as the case may be)—

section 1060(3) and (4) (references to the registrar in the Companies Acts),
sections 1064 F1126 and 1065 F1127 (certificates of incorporation),
section 1066 F1128 (companies' registered numbers),
sections 1077 to **[**F1129 1079A (public notice of certain information)**]**,
sections 1080(2) and (3), 1081 F1130 , 1082 F1131 and 1084 F1132 (the register),
sections 1085 to 1091 F1133 (inspection of the register),
sections 1093 to 1098 F1134 (correction or removal of material on the register),
section 1106 F1135 (voluntary filing of translations),
sections 1112 F1136 and 1113 F1137 (supplementary provisions).

(4) The following provisions apply as indicated in the provisions concerned—

section 1067 (registered numbers of UK establishments of overseas companies),
sections 1099 to 1101 (the registrar's index of company names),
sections 1102 to 1105 and 1107 F1138 (language requirements: translation).

(5) Unless the context otherwise requires, the provisions of this Part apply to an overseas company as they apply to a company as defined in section 1.**]**

Textual Amendments

F1123 By virtue of article 6 of S.I. 2009/317, the references in section 1061 to the Insolvency Act 1986 and the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) are to be read as including a reference to Parts 2 and 3 of the Banking Act 2009 (c. 1).

F1124 Section 1063 was applied for the purposes of S.I. 2007/2974 by regulation 4 of those Regulations.

F1125 Words in s. 1059A(2) inserted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 95(2)**, 164(3)(h)(i)

F1126 Section 1064 was applied to limited liability partnerships by regulation 61 of S.I. 2009/1804.

F1127 Section 1065 was applied to limited liability partnerships by regulation 61 of S.I. 2009/1804.

F1128 Section 1066 was applied to limited liability partnerships by regulation 62 of S.I. 2009/1804.

F1129 Words in s. 1059A(3) substituted (7.7.2014) by The Companies Act 2006 (Interconnection of Registers) Order 2014 (S.I. 2014/1557), arts. 1, **3**

F1130 Section 1081 was applied for the purposes of S.I. 2007/2974 by regulation 4 of those Regulations, and was applied to limited liability partnerships by regulation 64 of S.I. 2009/1804.

F1131 Section 1082 was applied to limited liability partnerships by regulation 64 of S.I. 2009/1804.

F1132 Section 1084 was applied to limited liability partnerships by regulation 65 of S.I. 2009/1804.

F1133 Sections 1085 to 1091 were applied to limited liability partnerships by regulation 66 of S.I. 2009/1804.

F1134 Sections 1093 to 1098 were applied to limited liability partnerships by regulation 67 of S.I. 2009/1804.

F1135 Section 1106 was applied for the purposes of S.I. 2007/2974 by regulation 4 of those Regulations, and was applied to limited liability partnerships by regulation 68 of S.I. 2009/1804.

F1136 Section 1112 was applied for the purposes of S.I. 2007/2974 by regulation 4 of those Regulations, and was applied to limited liability partnerships by regulation 69 of S.I. 2009/1804.

F1137 Section 1113 was applied for the purposes of S.I. 2007/2974 by regulation 4 of those Regulations, and was applied to limited liability partnerships by regulation 69 of S.I. 2009/1804.

F1138 Sections 1102 to 1105 and 1107 were applied for the purposes of S.I. 2007/2974 by regulation 4 of those Regulations, and sections 1103 to 1107 were applied to limited liability partnerships by regulation 68 of S.I. 2009/1804. By virtue of article 6 of S.I. 2009/317, the references in section 1102 to the Insolvency Act 1986 and the Insolvency (Northern Ireland) Order 1989 are to be read as including a reference to Parts 2 and 3 of the Banking Act 2009.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

The registrar

1060 The registrar

(1) There shall continue to be—

(a) a registrar of companies for England and Wales,

(b) a registrar of companies for Scotland, and

(c) a registrar of companies for Northern Ireland.

(2) The registrars shall be appointed by the Secretary of State.

(3) In the Companies Acts"the registrar of companies" and "the registrar" mean the registrar of companies for England and Wales, Scotland or Northern Ireland, as the case may require.

(4) References in the Companies Acts to registration in a particular part of the United Kingdom are to registration by the registrar for that part of the United Kingdom.

Modifications etc. (not altering text)

C1356 S. 1060(1)(2) applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1357 S. 1060(1)(2) applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(a)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I363 S. 1060 wholly in force at 1.10.2009; s. 1060 not in force at Royal Assent, see s. 1300; s. 1060 in force for specified purposes at 6.4.2007 by S.I. 2006/3428, **art. 4(3)(a)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1060 in force otherwise at 1.10.2009 by S.I. 2008/2860, **art. 3(r)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1061 The registrar's functions

(1) The registrar shall continue—

[[F1139](a) to perform the functions conferred on the registrar by or under the Companies Acts or any other enactment, and**]**

(b) to perform such functions on behalf of the Secretary of State, in relation to the registration of companies or other matters, as the Secretary of State may from time to time direct.

(2) [F1140] . . . . . .

(3) References in this Act to the functions of the registrar are to functions within subsection (1)(a) or (b).

Textual Amendments

F1139 S. 1061(1)(a) substituted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 4(a)**

F1140 S. 1061(2) omitted (1.10.2009) by virtue of The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 4(b)**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C1358 Ss. 1061-1063 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1359 Ss. 1061-1063 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(a)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I364 S. 1061 wholly in force at 1.10.2009; s. 1061 not in force at Royal Assent, see s. 1300; s. 1061 in force for specified purposes at 6.4.2007 by S.I. 2006/3428, **art. 4(3)(b)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1061 in force otherwise at 1.10.2009 by S.I. 2008/2860, **art. 3(r)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1062 The registrar's official seal

The registrar shall have an official seal for the authentication of documents in connection with the performance of the registrar's functions.

Modifications etc. (not altering text)

C1360 Ss. 1061-1063 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1361 Ss. 1061-1063 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(a)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

1063 Fees payable to registrar

(1) The Secretary of State may make provision by regulations requiring the payment to the registrar of fees in respect of—

(a) the performance of any of the registrar's functions, or

(b) the provision by the registrar of services or facilities for purposes incidental to, or otherwise connected with, the performance of any of the registrar's functions.

(2) The matters for which fees may be charged include—

(a) the performance of a duty imposed on the registrar or the Secretary of State,

(b) the receipt of documents delivered to the registrar, and

(c) the inspection, or provision of copies, of documents kept by the registrar.

(3) The regulations may—

(a) provide for the amount of the fees to be fixed by or determined under the regulations;

(b) provide for different fees to be payable in respect of the same matter in different circumstances;

(c) specify the person by whom any fee payable under the regulations is to be paid;

(d) specify when and how fees are to be paid.

(4) Regulations under this section are subject to negative resolution procedure.

Status: *Point in time view as at 31/12/2020.*
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(5) In respect of the performance of functions or the provision of services or facilities—

(a) for which fees are not provided for by regulations, or

(b) in circumstances other than those for which fees are provided for by regulations,

the registrar may determine from time to time what fees (if any) are chargeable.

(6) Fees received by the registrar are to be paid into the Consolidated Fund.

(7) The Limited Partnerships Act 1907 (c. 24) is amended as follows—

(a) in section 16(1) (inspection of statements registered)—

(i) omit the words ", and there shall be paid for such inspection such fees as may be appointed by the Board of Trade, not exceeding 5p for each inspection", and

(ii) omit the words from "and there shall be paid for such certificate" to the end;

(b) in section 17 (power to make rules)—

(i) omit the words "(but as to fees with the concurrence of the Treasury)", and

(ii) omit paragraph (a).

Modifications etc. (not altering text)

C1362 S. 1063 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(2)}

C1363 Ss. 1061-1063 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1364 Ss. 1061-1063 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(a)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I365 S. 1063 wholly in force at 1.10.2009; s. 1063 not in force at Royal Assent, see s. 1300; s. 1063 in force for specified purposes at 20.1.2007 and wholly in force for E.W.S. at 6.4.2007 by S.I. 2006/3428, **arts. 3(3)**, **4(1)(a)(4)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5 para. 6); s. 1063 in force at 1.10.2009 insofar as not already in force by S.I. 2008/2860, **art. 3(r)** (with arts 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Certificates of incorporation

1064 Public notice of issue of certificate of incorporation

(1) The registrar must cause to be published—

(a) in the Gazette, or

(b) in accordance with section 1116 (alternative means of giving public notice),

notice of the issue by the registrar of any certificate of incorporation of a company.

(2) The notice must state the name and registered number of the company and the date of issue of the certificate.

(3) This section applies to a certificate of incorporation issued under—

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(a) section 80 (change of name),
(b) section 88 (Welsh companies), or
(c) any provision of Part 7 (re-registration),

as well as to the certificate issued on a company's formation.

Modifications etc. (not altering text)

C1365 S. 1064 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **61** (with reg. 60, Sch. 1 paras. 28, 34, 35)

C1366 S. 1064 applied (1.10.2009) by The Companies (Companies Authorised to Register) Regulations 2009 (S.I. 2009/2437), **reg. 12(5)** (with transitional provisions and savings in reg. 24)

C1367 S. 1064 modified (31.12.2020) by S.I. 2004/2326, **reg. 12B** (as inserted by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **8** (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), **5(a)-(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

1065 Right to certificate of incorporation

Any person may require the registrar to provide him with a copy of any certificate of incorporation of a company, signed by the registrar or authenticated by the registrar's seal.

Modifications etc. (not altering text)

C1368 S. 1065 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **61** (with reg. 60, Sch. 1 paras. 28, 34, 35)

C1369 S. 1065 modified (31.12.2020) by S.I. 2004/2326, **reg. 12B** (as inserted by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **8** (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), **5(a)-(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

Registered numbers

1066 Company's registered numbers

(1) The registrar shall allocate to every company a number, which shall be known as the company's registered number.

(2) Companies' registered numbers shall be in such form, consisting of one or more sequences of figures or letters, as the registrar may determine.

(3) The registrar may on adopting a new form of registered number make such changes of existing registered numbers as appear necessary.

(4) A change of a company's registered number has effect from the date on which the company is notified by the registrar of the change.

(5) For a period of three years beginning with that date any requirement to disclose the company's registered number imposed by regulations under section 82 or section 1051 (trading disclosures) is satisfied by the use of either the old number or the new.

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(6) In this section "company" includes an overseas company whose particulars have been registered under section 1046, other than a company that appears to the registrar not to be required to register particulars under that section.

Modifications etc. (not altering text)

C1370 S. 1066 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **62** (with reg. 60)

C1371 S. 1066 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 18** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1372 S. 1066 applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **58**

C1373 S. 1066 modified (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **4(1)**, 39(d), 42 (with regs. 1(2), 3(c))

C1374 S. 1066(1)-(5) applied by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), reg. 14, **Sch. 2 para. 1** (as substituted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), **reg. 38**) (as amended (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **11**, 46 (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), **5(a)-(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

1067 Registered numbers of [F1141UK establishments] of overseas company

(1) The registrar shall allocate to every **[**F1142UK establishment**]** of an overseas company whose particulars are registered under section 1046 a number, which shall be known as **[**F1143the UK establishment's registered number**]**.

(2) **[**F1144The registered numbers of UK establishments of overseas companies**]** shall be in such form, consisting of one or more sequences of figures or letters, as the registrar may determine.

(3) The registrar may on adopting a new form of registered number make such changes of existing registered numbers as appear necessary.

(4) A change of **[**F1145the registered number of a UK establishment**]** has effect from the date on which the company is notified by the registrar of the change.

(5) For a period of three years beginning with that date any requirement to disclose **[**F1146the UK establishment's registered number**]** imposed by regulations under section 1051 (trading disclosures) is satisfied by the use of either the old number or the new.

[F1147(6) In this Part " establishment ", in relation to an overseas company, means—

(a) a branch within the meaning of the Eleventh Company Law Directive (89/666/ EEC) F1148 , or

(b) a place of business that is not such a branch,

and " UK establishment " means an establishment in the United Kingdom. **]**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F1141 Words in s. 1067 heading substituted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 5(a)**

F1142 Words in s. 1067(1) substituted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 5(b)(i)**

F1143 Words in s. 1067(1) substituted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 5(b)(ii)**

F1144 Words in s. 1067(2) substituted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 5(c)**

F1145 Words in s. 1067(4) substituted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 5(d)**

F1146 Words in s. 1067(5) substituted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 5(e)**

F1147 S. 1067(6) added (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 5(f)**

F1148 OJ L 395, 30.12.1989, p. 36.

Delivery of documents to the registrar

1068 Registrar's requirements as to form, authentication and manner of delivery

(1) The registrar may impose requirements as to the form, authentication and manner of delivery of documents required or authorised to be delivered to the registrar under any enactment.

(2) As regards the form of the document, the registrar may—

(a) require the contents of the document to be in a standard form;

(b) impose requirements for the purpose of enabling the document to be scanned or copied.

(3) As regards authentication, the registrar may—

(a) require the document to be authenticated by a particular person or a person of a particular description;

(b) specify the means of authentication;

[[F1149](c) require the document to contain or be accompanied by the name or registered number (or both) of the company (or other body) to which it relates.**]**

(4) As regards the manner of delivery, the registrar may specify requirements as to—

(a) the physical form of the document (for example, hard copy or electronic form);

(b) the means to be used for delivering the document (for example, by post or electronic means);

(c) the address to which the document is to be sent;

(d) in the case of a document to be delivered by electronic means, the hardware and software to be used, and technical specifications (for example, matters relating to protocol, security, anti-virus protection or encryption).

(5) The registrar must secure that **[**[F1150]an enhanced disclosure document**]** (see section 1078) may be delivered to the registrar by electronic means.

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(6) The power conferred by this section does not authorise the registrar to require documents to be delivered by electronic means (see section 1069).

[F1151(6A) But the power conferred by this section does authorise the registrar to require any document permitted or required to be delivered to the registrar under Chapter 2A of Part 8 (option to keep membership information on central register) to be delivered by electronic means.**]**

(7) Requirements imposed under this section must not be inconsistent with requirements imposed by any enactment with respect to the form, authentication or manner of delivery of the document concerned.

Textual Amendments

F1149 S. 1068(3)(c) substituted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 6**

F1150 Words in s. 1068(5) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 15**; 2020 c. 1, Sch. 5 para. 1(1)

F1151 S. 1068(6A) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 30**; S.I. 2016/321, reg. 6(c)

Modifications etc. (not altering text)

C1375 S. 1068 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 19(4)(a)}

C1376 S. 1068 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 12(6)(a)}

C1377 Ss. 1068-1071 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1378 Ss. 1068-1071 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(b)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I366 S. 1068 wholly in force at 1.10.2009; s. 1068 not in force at Royal Assent, see s. 1300; s. 1068(5) wholly in force and s. 1068(1)-(4)(6)(7) in force for specified purposes at 1.1.2007 by S.I. 2006/3428, **art. 2** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); and for certain further purposes at 15.12.2007 by S.I. 2007/2194, **art. 4(1)** (with art. 12) (as amended by S.I. 2007/2974, reg. 4(5)); s. 1068 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(r)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1069 Power to require delivery by electronic means

(1) The Secretary of State may make regulations requiring documents that are authorised or required to be delivered to the registrar to be delivered by electronic means.

(2) Any such requirement to deliver documents by electronic means is effective only if registrar's rules have been published with respect to the detailed requirements for such delivery.

(3) Regulations under this section are subject to affirmative resolution procedure.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C1379 Ss. 1068-1071 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1380 Ss. 1068-1071 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(b)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I367 S. 1069 wholly in force at 1.10.2009; s. 1069 not in force at Royal Assent, see s. 1300; s. 1069 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1069 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(r)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1070 Agreement for delivery by electronic means

(1) The registrar may agree with a company **[**[F1152](or other body)**]** that documents relating to the company **[**[F1152](or other body)**]** that are required or authorised to be delivered to the registrar—

(a) will be delivered by electronic means, except as provided for in the agreement, and

(b) will conform to such requirements as may be specified in the agreement or specified by the registrar in accordance with the agreement.

(2) An agreement under this section may relate to all or any description of documents to be delivered to the registrar.

(3) Documents in relation to which an agreement is in force under this section must be delivered in accordance with the agreement.

Textual Amendments

F1152 Words in S. 1070(1) inserted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 7**

Modifications etc. (not altering text)

C1381 Ss. 1068-1071 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1382 Ss. 1068-1071 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(b)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

1071 Document not delivered until received

(1) A document is not delivered to the registrar until it is received by the registrar.

(2) Provision may be made by registrar's rules as to when a document is to be regarded as received.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C1383 Ss. 1068-1071 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1384 Ss. 1068-1071 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(b)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Requirements for proper delivery

1072 Requirements for proper delivery

(1) A document delivered to the registrar is not properly delivered unless all the following requirements are met—

(a) the requirements of the provision under which the document is to be delivered to the registrar as regards—

(i) the contents of the document, and

(ii) form, authentication and manner of delivery;

(b) any applicable requirements under—

section 1068 (registrar's requirements as to form, authentication and manner of delivery),

section 1069 (power to require delivery by electronic means), or

section 1070 (agreement for delivery by electronic means);

(c) any requirements of this Part as to the language in which the document is drawn up and delivered or as to its being accompanied on delivery by a certified translation into English;

(d) in so far as it consists of or includes names and addresses, any requirements of this Part as to permitted characters, letters or symbols or as to its being accompanied on delivery by a certificate as to the transliteration of any element;

(e) any applicable requirements under section 1111 (registrar's requirements as to certification or verification);

(f) any requirement of regulations under section 1082 (use of unique identifiers);

(g) any requirements as regards payment of a fee in respect of its receipt by the registrar.

(2) A document that is not properly delivered is treated for the purposes of the provision requiring or authorising it to be delivered as not having been delivered, subject to the provisions of section 1073 (power to accept documents not meeting requirements for proper delivery).

Modifications etc. (not altering text)

C1385 Ss. 1072-1076 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1386 Ss. 1072-1076 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(c)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

1073 Power to accept documents not meeting requirements for proper delivery

(1) The registrar may accept (and register) a document that does not comply with the requirements for proper delivery.

(2) A document accepted by the registrar under this section is treated as received by the registrar for the purposes of section 1077 (public notice of receipt of certain documents).

(3) No objection may be taken to the legal consequences of a document's being accepted (or registered) by the registrar under this section on the ground that the requirements for proper delivery were not met.

(4) The acceptance of a document by the registrar under this section does not affect—

(a) the continuing obligation to comply with the requirements for proper delivery, or

(b) subject as follows, any liability for failure to comply with those requirements.

(5) For the purposes of—

(a) section 453 (civil penalty for failure to file accounts and reports), and

(b) any enactment imposing a daily default fine for failure to deliver the document,

the period after the document is accepted does not count as a period during which there is default in complying with the requirements for proper delivery.

(6) But if, subsequently—

(a) the registrar issues a notice under section 1094(4) in respect of the document (notice of administrative removal from the register), and

(b) the requirements for proper delivery are not complied with before the end of the period of 14 days after the issue of that notice,

any subsequent period of default does count for the purposes of those provisions.

Modifications etc. (not altering text)

C1387 Ss. 1072-1076 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1388 Ss. 1072-1076 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(c)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

1074 Documents containing unnecessary material

(1) This section applies where a document delivered to the registrar contains unnecessary material.

(2) "Unnecessary material" means material that—

(a) is not necessary in order to comply with an obligation under any enactment, and

(b) is not specifically authorised to be delivered to the registrar.

(3) For this purpose an obligation to deliver a document of a particular description, or conforming to certain requirements, is regarded as not extending to anything that is

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not needed for a document of that description or, as the case may be, conforming to those requirements.

(4) If the unnecessary material cannot readily be separated from the rest of the document, the document is treated as not meeting the requirements for proper delivery.

(5) If the unnecessary material can readily be separated from the rest of the document, the registrar may register the document either—

(a) with the omission of the unnecessary material, or

(b) as delivered.

Modifications etc. (not altering text)

C1389 Ss. 1072-1076 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1390 Ss. 1072-1076 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(c)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

1075 Informal correction of document

(1) A document delivered to the registrar may be corrected by the registrar if it appears to the registrar to be incomplete or internally inconsistent.

(2) This power is exercisable only—

(a) on instructions, and

(b) if **[**F1153the company (or other body) to which the document relates**]** has given (and has not withdrawn) its consent to instructions being given under this section.

(3) The following requirements must be met as regards the instructions—

(a) the instructions must be given in response to an enquiry by the registrar;

(b) the registrar must be satisfied that the person giving the instructions is authorised to do so—

(i) by the person by whom the document was delivered, or

(ii) by the company **[**F1154(or other body)**]** to which the document relates;

(c) the instructions must meet any requirements of registrar's rules as to—

(i) the form and manner in which they are given, and

(ii) authentication.

(4) **[**F1155The consent of the company (or other body)**]** to instructions being given under this section (and any withdrawal of such consent)—

(a) may be in hard copy or electronic form, and

(b) must be notified to the registrar.

(5) This section applies in relation to documents delivered under Part 25 (company charges) by a person other than the company **[**F1156(or other body)**]** as if the references to the company **[**F1156(or other body)**]** were to the company **[**F1156(or other body)**]** or the person by whom the document was delivered.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(6) A document that is corrected under this section is treated, for the purposes of any enactment relating to its delivery, as having been delivered when the correction is made.

(7) The power conferred by this section is not exercisable if the document has been registered under section 1073 (power to accept documents not meeting requirements for proper delivery).

Textual Amendments

F1153 Words in s. 1075(2)(b) substituted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 8(a)**

F1154 Words in s. 1075(3)(b)(ii) text inserted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 8(b)**

F1155 Words in s. 1075(4) text substituted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 8(c)**

F1156 Words in s. 1075(5) inserted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 8(d)**

Modifications etc. (not altering text)

C1391 Ss. 1072-1076 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1392 Ss. 1072-1076 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(c)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

1076 Replacement of document not meeting requirements for proper delivery

(1) The registrar may accept a replacement for a document previously delivered that—

(a) did not comply with the requirements for proper delivery, or

(b) contained unnecessary material (within the meaning of section 1074).

(2) A replacement document must not be accepted unless the registrar is satisfied that it is delivered by—

(a) the person by whom the original document was delivered, or

(b) the company **[**F1157(or other body)**]** to which the original document relates,

and that it complies with the requirements for proper delivery.

(3) The power of the registrar to impose requirements as to the form and manner of delivery includes power to impose requirements as to the identification of the original document and the delivery of the replacement in a form and manner enabling it to be associated with the original.

(4) This section does not apply where the original document was delivered under Part 25 (company charges) (but see **[**F1158section 859M (rectification of register)**]**).

Textual Amendments

F1157 Words in s. 1076(2)(b) inserted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 9**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F1158 Words in s. 1076(4) substituted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 3(3)** (with reg. 6)

Modifications etc. (not altering text)

C1393 Ss. 1072-1076 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1394 Ss. 1072-1076 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(c)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Public notice of receipt of certain documents

1077 Public notice of receipt of certain documents

(1) The registrar must cause to be published—

(a) in the Gazette, or

(b) in accordance with section 1116 (alternative means of giving public notice),

notice of the receipt by the registrar of any document that, on receipt, is **[**[F1159]an enhanced disclosure document**]** (see section 1078).

(2) The notice must state the name and registered number of the company, the description of document and the date of receipt.

(3) The registrar is not required to cause notice of the receipt of a document to be published before the date of incorporation of the company to which the document relates.

Textual Amendments

F1159 Words in s. 1077(1) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 16**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C1395 S. 1077 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 19(4)(b)}

C1396 Ss. 1077-1079 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **63** (with reg. 60) (as amended (with effect in accordance with reg. 3 of the amending S.I.) by The Reports on Payments to Governments Regulations 2014 (S.I. 2014/3209), regs. 1(2), **20(2)** and as amended (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 1 para. 6**)

C1397 Ss. 1077-1079 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 19** (with transitional provisions and savings in regs. 7, 9, Sch. 2) (as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **23** and as amended (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, **Sch. 2 para. 3**)

C1398 S. 1077 power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1399 S. 1077(1)(2) applied (with modifications) by S.I. 2014/3209, reg 20A Table A (as inserted (18.12.2015) by The Reports on Payments to Governments (Amendment) Regulations 2015 (S.I. 2015/1928), regs. 1(2), **3**)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I368 S. 1077 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(b)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1078 [F1160Enhanced disclosure documents]

(1) [F1161The enhanced disclosure documents are as follows.]

F1162...

(2) In the case of every company—

Constitutional documents

1. The company's memorandum and articles.

2. Any amendment of the company's articles (including every resolution or agreement required to be embodied in or annexed to copies of the company's articles issued by the company).

3. After any amendment of the company's articles, the text of the articles as amended.

4. Any notice of a change of the company's name.

Directors

1. The statement of proposed officers required on formation of the company.

2. Notification of any change among the company's directors.

3. Notification of any change in the particulars of directors required to be delivered to the registrar.

[F1163 Accounts and reports etc]

1. All documents required to be delivered to the registrar under section 441 (annual accounts and reports).

[F1164 1A. All documents delivered to the registrar under sections 394A(2)(e), 448A(2)(e) and 479A(2)(e) (qualifying subsidiary companies: conditions for exemption from the audit, preparation and filing of individual accounts).]

2. [F1165Any confirmation statement delivered by the company under section 853A.]

Registered office

Notification of any change of the company's registered office.

Winding up

1. Copy of any winding-up order in respect of the company.

2. Notice of the appointment of liquidators.

3. Order for the dissolution of a company on a winding up.

4. Return by a liquidator of the final meeting of a company on a winding up.

(3) In the case of a public company—

Share capital

1. Any statement of capital and initial shareholdings.

2. Any return of allotment and the statement of capital accompanying it.

3. Copy of any resolution under section 570 or 571 (disapplication of pre-emption rights).

4. Copy of any report under section 593 or 599 as to the value of a non-cash asset.

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5. Statement of capital accompanying notice given under section 625 (notice by company of redenomination of shares).

6. Statement of capital accompanying notice given under section 627 (notice by company of reduction of capital in connection with redenomination of shares).

7. Notice delivered under section 636 (notice of new name of class of shares) or 637 (notice of variation of rights attached to shares).

8. Statement of capital accompanying order delivered under section 649 (order of court confirming reduction of capital).

9. Notification (under section 689) of the redemption of shares and the statement of capital accompanying it.

10. Statement of capital accompanying return delivered under section 708 (notice of cancellation of shares on purchase of own shares) or 730 (notice of cancellation of shares held as treasury shares).

11. Any statement of compliance delivered under section 762 (statement that company meets conditions for issue of trading certificate).

[F1166 12. Any statement delivered under section 762(1)(e) (statement of the aggregate amount paid up on shares on account of their nominal value).**]**

Mergers and divisions

1. Copy of any draft of the terms of a scheme required to be delivered to the registrar under section 906 or 921.

2. Copy of any order under **[**F1167 section 899, 900, 901F or 901J**]** in respect of a compromise or arrangement to which Part 27 (mergers and divisions of public companies) applies.

[F1168 (3A) In the case of a private company which applies to re-register as a public company, the statement delivered under section 94(2)(e) (statement of the aggregate amount paid up on shares on account of their nominal value).**]**

(4) Where a private company re-registers as a public company (see section 96)—

(a) the last statement of capital relating to the company received by the registrar under any provision of the Companies Acts becomes **[**F1169 an enhanced disclosure document**]**, and

(b) section 1077 (public notice of receipt of certain documents) applies as if the statement had been received by the registrar when the re-registration takes effect.

[F1170 (4A) Where a company is required by regulation 14 of the Reports on Payments to Governments Regulations 2014 to deliver to the registrar a report or consolidated report on payments to governments, that report or consolidated report.

(4B) Where a company is required by regulation 15 of the Reports on Payments to Governments Regulations 2014 to deliver to the registrar information on payments to governments which is contained in a report or consolidated report prepared in accordance with equivalent reporting requirements (within the meaning of those Regulations), that information. **]**

(5) In the case of an overseas company, such particulars, returns and other documents required to be delivered under Part 34 as may be specified by the Secretary of State by regulations.

(6) Regulations under subsection (5) are subject to negative resolution procedure.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F1160 S. 1078 heading substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 17(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1161 Words in s. 1078(1) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 17(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F1162 Words in s. 1078(1) omitted (31.12.2020) by virtue of The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 17(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F1163 Words in s. 1078(2) substituted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 93(5)(a)**, 164(1); S.I. 2016/321, reg. 6(b)

F1164 Words in s. 1078(2) inserted (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by The Companies and Limited Liability Partnerships (Accounts and Audit Exemptions and Change of Accounting Framework) Regulations 2012 (S.I. 2012/2301), regs. 1, **19**

F1165 Words in s. 1078(2) substituted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 93(5)(b)**, 164(1); S.I. 2016/321, reg. 6(b)

F1166 Words in s. 1078(3) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 98(4)(a)**, 164(1); S.I. 2016/321, reg. 6(f)

F1167 Words in s. 1078(3) substituted (26.6.2020) by Corporate Insolvency and Governance Act 2020 (c. 12), s. 49(1), **Sch. 9 para. 38** (with ss. 2(2), 5(2))

F1168 S. 1078(3A) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 98(4)(b)**, 164(1); S.I. 2016/321, reg. 6(f)

F1169 Words in s. 1078(4)(a) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 17(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F1170 S. 1078(4A)(4B) inserted (with effect in accordance with reg. 3 of the amending S.I.) by The Reports on Payments to Governments Regulations 2014 (S.I. 2014/3209), regs. 1(2), **20(1)**

Modifications etc. (not altering text)

C1400 Ss. 1077-1079 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 63 (with reg. 60) (as amended (with effect in accordance with reg. 3 of the amending S.I.) by The Reports on Payments to Governments Regulations 2014 (S.I. 2014/3209), regs. 1(2), 20(2) and as amended (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 1 para. 6)

C1401 Ss. 1077-1079 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 19** (with transitional provisions and savings in regs. 7, 9, Sch. 2) (as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, 23 and as amended (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 2 para. 3)

Commencement Information

I369 S. 1078 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(c)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1079 Effect of failure to give public notice

(1) A company is not entitled to rely against other persons on the happening of any event to which this section applies unless—

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the event has been officially notified at the material time, or

(b) the company shows that the person concerned knew of the event at the material time.

(2) The events to which this section applies are—

(a) an amendment of the company's articles,

(b) a change among the company's directors,

(c) (as regards service of any document on the company) a change of the company's registered office,

(d) the making of a winding-up order in respect of the company, or

(e) the appointment of a liquidator in a voluntary winding up of the company.

(3) If the material time falls—

(a) on or before the 15th day after the date of official notification, or

(b) where the 15th day was not a working day, on or before the next day that was,

the company is not entitled to rely on the happening of the event as against a person who shows that he was unavoidably prevented from knowing of the event at that time.

(4) "Official notification" means—

(a) in relation to an amendment of the company's articles, notification in accordance with section 1077 (public notice of receipt by registrar of certain documents) of the amendment and the amended text of the articles;

(b) in relation to anything else stated in **[**F1171an enhanced disclosure document**]**, notification of that document in accordance with that section;

(c) in relation to the appointment of a liquidator in a voluntary winding up, notification of that event in accordance with section 109 of the Insolvency Act 1986 (c. 45) or Article 95 of the Insolvency (Northern Ireland) Order 1989 (S.I.1989/2405 (N.I. 19)).

Textual Amendments

F1171 Words in s. 1079(4)(b) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 18**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C1402 S. 1079 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 19(4)(c)}

C1403 Ss. 1077-1079 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 63 (with reg. 60) (as amended (with effect in accordance with reg. 3 of the amending S.I.) by The Reports on Payments to Governments Regulations 2014 (S.I. 2014/3209), regs. 1(2), 20(2) and as amended (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 1 para. 6)

C1404 Ss. 1077-1079 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 19** (with transitional provisions and savings in regs. 7, 9, Sch. 2) (as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, 23 and as amended (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 2 para. 3)

C1405 S. 1079 power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I370 S. 1079 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(c)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

[F1172]1079A Provision of information for publication on European e-Justice portal

. . . . . .

Textual Amendments

F1172 S. 1079A omitted (31.12.2020) by virtue of The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 19**; 2020 c. 1, Sch. 5 para. 1(1)

[F1173 Notice of receipt of documents about new directors

Textual Amendments

F1173 S. 1079B and cross-heading. inserted (10.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 101(1)**, 164(1) (with s. 101(2)); S.I. 2015/1689, reg. 4(b)

1079B Duty to notify directors

(1) This section applies whenever the registrar registers either of the following documents—

(a) the statement of proposed officers required on formation of a company, or

(b) notice under section 167 or 167D of a person having become a director of a company.

(2) As soon as reasonably practicable after registering the document, the registrar must notify—

(a) in the case of a statement of proposed officers, the person or each person named in the statement as a director of the company, or

(b) in the case of a notice under section 167 or 167D, the person named in the document as having become a director of the company.

(3) The notice must—

(a) state that the person is named in the document as a director of the company, and

(b) include such information relating to the office and duties of a director (or such details of where information of that sort can be found) as the Secretary of State may from time to time direct the registrar to include.

(4) The notice may be sent in hard copy or electronic form to any address for the person that the registrar has received from either the subscribers or the company.*]*

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

The register

1080 The register

(1) The registrar shall continue to keep records of—

(a) the information contained in documents delivered to the registrar under any enactment,**[**F1174, and

(b) certificates issued by the registrar under any enactment.**]**

(2) The records relating to companies are referred to collectively in the Companies Acts as "the register".

(3) Information deriving from **[**F1175an enhanced disclosure document (see section 1078) delivered to the registrar,**]** must be kept by the registrar in electronic form.

(4) Subject to that, information contained in documents delivered to the registrar may be recorded and kept in any form the registrar thinks fit, provided it is possible to inspect it and produce a copy of it.

This is sufficient compliance with any duty of the registrar to keep, file or register the document or to record the information contained in it.

(5) The records kept by the registrar must be such that information relating to a company **[**F1176or other registered body**]** is associated with **[**F1177that body**]**, in such manner as the registrar may determine, so as to enable all the information relating to **[**F1178the body**]** to be retrieved.

Textual Amendments

F1174 S. 1080(1)(b) and word substituted for s. 1080(1)(b)(c) (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 10(2)**

F1175 Words in s. 1080(3) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 20**; 2020 c. 1, Sch. 5 para. 1(1)

F1176 Words in s. 1080(5) inserted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 10(3)(a)**

F1177 Words in s. 1080(5) substituted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 10(3)(b)**

F1178 Words in s. 1080(5) substituted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 10(3)(c)**

Modifications etc. (not altering text)

C1406 S. 1080 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 19(4)(d)}

C1407 S. 1080 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 12(6)(b)}

C1408 S. 1080(1) applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1409 S. 1080(1) applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(d)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1410 S. 1080(2) applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 20(1)(a)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1411 S. 1080(4)(5) applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1412 S. 1080(4) applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 20(1)(a)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1413 S. 1080(4)(5) applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(d)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I371 S. 1080 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(e)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1081 Annotation of the register

(1) The registrar must place a note in the register recording—

(a) the date on which a document is delivered to the registrar;

(b) if a document is corrected under section 1075, the nature and date of the correction;

(c) if a document is replaced (whether or not material derived from it is removed), the fact that it has been replaced and the date of delivery of the replacement;

(d) if material is removed—

(i) what was removed (giving a general description of its contents),

(ii) under what power, and

(iii) the date on which that was done.

[F1179(e) if a document is rectified under section 859M, the nature and date of rectification;

(f) if a document is replaced under section 859N, the fact that it has been replaced and the date of delivery of the replacement.**]**

[F1180(1A) If the registrar registers a document delivered by a company under section 128E that, by virtue of subsection (3)(a), (b) or (c) of that section, does not specify the relevant date, the registrar must place a note in the register recording as that date the date on which the document was registered by the registrar.**]**

(2) The Secretary of State may make provision by regulations—

(a) authorising or requiring the registrar to annotate the register in such other circumstances as may be specified in the regulations, and

(b) as to the contents of any such annotation.

(3) No annotation is required in the case of a document that by virtue of section 1072(2) (documents not meeting requirements for proper delivery) is treated as not having been delivered.

(4) A note may be removed if it no longer serves any useful purpose.

(5) Any duty or power of the registrar with respect to annotation of the register is subject to the court's power under section 1097 (powers of court on ordering removal of material from the register) to direct—

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(a) that a note be removed from the register, or

(b) that no note shall be made of the removal of material that is the subject of the court's order.

(6) Notes placed in the register in accordance with subsection (1)**[**F1181or (1A)**]**, or in pursuance of regulations under subsection (2), are part of the register for all purposes of the Companies Acts.

(7) Regulations under this section are subject to negative resolution procedure.

Textual Amendments

F1179 S. 1081(1)(e)(f) inserted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 3(4)** (with reg. 6)

F1180 S. 1081(1A) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 31(2)**; S.I. 2016/321, reg. 6(c)

F1181 Words in s. 1081(6) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 31(3)**; S.I. 2016/321, reg. 6(c)

Modifications etc. (not altering text)

C1414 S. 1081 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(1)(a)} (with transitional provisions in Sch. 1 para. 2)

C1415 S. 1081 applied (with modifications) (9.7.2009 for certain purposes otherwise 1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **64** (with reg. 60, Sch. 1 paras. 29, 34, 35) (as amended (6.4.2013) by S.I. 2013/618, reg. 3 (with reg. 8(4)))

C1416 S. 1081 modified by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), reg. 13(1B), **Sch. 1A para. 1** (as inserted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), reg. {37})

C1417 S. 1081 applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **59**

C1418 S. 1081 modified (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **4(1)**, 39(e) (with regs. 1(2), 3(c))

C1419 S. 1081 power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

Commencement Information

I372 S. 1081 wholly in force at 1.10.2009; s. 1081 not in force at Royal Assent, see s. 1300; s. 1081 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1081 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(r)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1082 Allocation of unique identifiers

(1) The Secretary of State may make provision for the use, in connection with the register, of reference numbers ("unique identifiers") to identify each person who—

(a) is a director of a company,

(b) is secretary (or a joint secretary) of a company, or

(c) in the case of an overseas company whose particulars are registered under section 1046, holds any such position as may be specified for the purposes of this section by regulations under that section.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The regulations may—

(a) provide that a unique identifier may be in such form, consisting of one or more sequences of letters or numbers, as the registrar may from time to time determine;

(b) make provision for the allocation of unique identifiers by the registrar;

(c) require there to be included, in any specified description of documents delivered to the registrar, as well as a statement of the person's name—

(i) a statement of the person's unique identifier, or

(ii) a statement that the person has not been allocated a unique identifier;

(d) enable the registrar to take steps where a person appears to have more than one unique identifier to discontinue the use of all but one of them.

(3) The regulations may contain provision for the application of the scheme in relation to persons appointed, and documents registered, before the commencement of this Act.

(4) The regulations may make different provision for different descriptions of person and different descriptions of document.

(5) Regulations under this section are subject to affirmative resolution procedure.

Modifications etc. (not altering text)

C1420 S. 1082 applied (with modifications) (9.7.2009 for certain purposes otherwise 1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **64** (with reg. 60, Sch. 1 paras. 29, 34, 35)

C1421 S. 1082 applied (with modifications) by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), reg. 14, **Sch. 2 para. 2** (as substituted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), **reg. 38**) (as amended (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **11**, 46 (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), **5(a)-(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

Commencement Information

I373 S. 1082 wholly in force at 1.10.2009; s. 1082 not in force at Royal Assent, see s. 1300; s. 1082 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1082 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(r)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1083 Preservation of original documents

(1) The originals of documents delivered to the registrar in hard copy form must be kept for three years after they are received by the registrar, after which they may be destroyed provided the information contained in them has been **[**[F1182]recorded**]**.

This is subject to section 1087(3) (extent of obligation to retain material not available for public inspection).

(2) The registrar is under no obligation to keep the originals of documents delivered in electronic form, provided the information contained in them has been **[**[F1182]recorded**]**.

(3) This section applies to documents held by the registrar when this section comes into force as well as to documents subsequently received.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F1182 Words in s. 1083(1)(2) substituted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 11**

Modifications etc. (not altering text)

C1422 S. 1083 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1423 S. 1083 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), {regs. 3-5, Sch. 1 para. 17(2)(e)} (with transitional provisions and savings in regs. 7, 9, Sch. 2)

1084 Records relating to companies that have been dissolved etc

(1) This section applies where—

(a) a company is dissolved,

(b) an overseas company ceases to have any connection with the United Kingdom by virtue of which it is required to register particulars under section 1046, or

(c) a credit or financial institution ceases to be within section 1050 (overseas institutions required to file accounts with the registrar).

(2) At any time after two years from the date on which it appears to the registrar that—

(a) the company has been dissolved,

(b) the overseas company has ceased to have any connection with the United Kingdom by virtue of which it is required to register particulars under section 1046, or

(c) the credit or financial institution has ceased to be within section 1050 (overseas institutions required to file accounts with the registrar),

the registrar may direct that records relating to the company or institution may be removed to the Public Record Office or, as the case may be, the Public Record Office of Northern Ireland.

(3) Records in respect of which such a direction is given shall be disposed of under the enactments relating to that Office and the rules made under them.

(4) In subsection (1)(a) "company" includes a company provisionally or completely registered under the Joint Stock Companies Act 1844 (c. 110).

[[F1183](4A) This section has effect subject to section 1087ZA (required particulars available for public inspection for limited period).**]**

(5) This section does not extend to Scotland.

Textual Amendments

F1183 S. 1084(4A) inserted (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), **16(3)**

Modifications etc. (not altering text)

C1424 S. 1084 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **65** (with reg. 60) (as amended

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), **17(2)**)

C1425 S. 1084 modified (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **4(1)**, 39(f) (with regs. 1(2), 3(c))

C1426 S. 1084: power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1427 S. 1084 applied (with modifications) by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), reg. 14, **Sch. 2 para. 3** (as substituted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), **reg. 38**) (as amended (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **11**, 46 (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), 5(a)-(f)); 2020 c. 1, Sch. 5 para. 1(1))

[F1184 1084A Recording of optional information on register

(1) The Secretary of State may make provision by regulations authorising a company or other body to deliver optional information of a prescribed description to the registrar.

(2) In this section " optional information ", in relation to a company or other body, means information about the company or body which, but for the regulations, the company or body would not be obliged or authorised under any enactment to deliver to the registrar.

(3) The regulations may, in particular, include provision—

(a) imposing requirements on a company or other body in relation to keeping any of its optional information recorded on the register up to date;

(b) about the consequences of a company or other body failing to do so.

(4) Regulations under this section are subject to affirmative resolution procedure.**]**

Textual Amendments

F1184 S. 1084A inserted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 95(1)**, 164(3)(h)(i)

Inspection etc of the register

1085 Inspection of the register

(1) Any person may inspect the register.

(2) The right of inspection extends to the originals of documents delivered to the registrar in hard copy form if, and only if, the record kept by the registrar of the contents of the document is illegible or unavailable.

The period for which such originals are to be kept is limited by section 1083(1).

(3) This section has effect subject to section 1087 (material not available for public inspection) **[**F1185 and section 1087ZA (required particulars available for public inspection for limited period)**]**.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F1185 Words in s. 1085(3) inserted (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), **16(4)**

Modifications etc. (not altering text)

C1428 S. 1085 modified by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), reg. 13(1B), **Sch. 1A para. 2** (as inserted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), **reg. 37**)

C1429 S. 1085 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 20(1)(b)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1430 S. 1085 applied by S.I. 2014/3209, reg 20A Table A (as inserted (18.12.2015) by The Reports on Payments to Governments (Amendment) Regulations 2015 (S.I. 2015/1928), regs. 1(2), **3**)

C1431 Ss. 1085-1091 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 66 (with reg. 60) (as amended: (6.4.2013) by S.I. 2013/618, reg. 4 (with reg. 8(4); (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, 6(2)(3); (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), 20; (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), Sch. 3 para. 5; (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 1 para. 7; and (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), 17(3))

C1432 S. 1085 applied (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **60**

C1433 S. 1085 modified (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **4(1)**, 39(g) (with regs. 1(2), 3(c))

C1434 Ss. 1085-1091: power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

Commencement Information

I374 S. 1085 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(f)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1086 Right to copy of material on the register

(1) Any person may require a copy of any material on the register.

(2) The fee for any such copy of material derived from **[**[F1186]an enhanced disclosure document**]** (see section 1078), whether in hard copy or electronic form, must not exceed the administrative cost of providing it.

(3) This section has effect subject to section 1087 (material not available for public inspection) **[**[F1187]and section 1087ZA (required particulars available for public inspection for limited period)**]**.

Textual Amendments

F1186 Words in s. 1086(2) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 21**; 2020 c. 1, Sch. 5 para. 1(1)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F1187 Words in s. 1086(3) inserted (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), **16(5)**

Modifications etc. (not altering text)

C1434 Ss. 1085-1091: power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1435 S. 1086 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 19(4)(e)}

C1436 S. 1086 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 12(6)(c)}

C1437 S. 1086 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 20(1)(b)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1438 S. 1086(1)(3) applied by S.I. 2014/3209, reg 20A Table A (as inserted (18.12.2015) by The Reports on Payments to Governments (Amendment) Regulations 2015 (S.I. 2015/1928), regs. 1(2), **3**)

C1439 Ss. 1085-1091 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 66 (with reg. 60) (as amended: (6.4.2013) by S.I. 2013/618, reg. 4 (with reg. 8(4); (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, 6(2)(3); (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), 20; (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), Sch. 3 para. 5; (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 1 para. 7; and (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), 17(3))

C1440 S. 1086 applied (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **60**

C1441 S. 1086 modified (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **4(1)**, 39(h) (with regs. 1(2), 3(c))

Commencement Information

I375 S. 1086 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(f)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1087 Material not available for public inspection

(1) The following material must not be made available by the registrar for public inspection—

(a) the contents of any document sent to the registrar containing views expressed pursuant to section 56 (comments on proposal by company to use certain words or expressions in company name);

(b) protected information within section 242(1) (directors' residential addresses: restriction on disclosure by registrar) or any corresponding provision of regulations under section 1046 (overseas companies);

[[F1188](ba) representations received by the registrar in response to a notice under—

(i) section 245(2) [F1189] (notice of proposal to put director's usual residential address on the public record), or

(ii) any corresponding provision of regulations under section 1046 (overseas companies);**]**

[[F1190](bb) information to which sections 240 to 244 are applied by section 790ZF(1) (residential addresses of people with significant control over the company)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

or any corresponding provision of regulations under section 1046 (overseas companies);

(bc) information that, by virtue of regulations under section 790ZG or any corresponding provision of regulations under section 1046, the registrar must omit from the material on the register that is available for inspection;**]**

(c) any application to the registrar under section 1024 (application for administrative restoration to the register) that has not yet been determined or was not successful;

(d) any document received by the registrar in connection with the giving or withdrawal of consent under section 1075 (informal correction of documents);

[F1191(da) information falling within section 1087A(1) (information about a person's date of birth);**]**

(e) any application or other document delivered to the registrar under section 1088 (application to make address unavailable for public inspection) and any address in respect of which such an application is successful;

(f) any application or other document delivered to the registrar under section 1095 (application for rectification of register);

(g) any court order under section 1096 (rectification of the register under court order) that the court has directed under section 1097 (powers of court on ordering removal of material from the register) is not to be made available for public inspection;

[F1192(ga) any application or other document delivered to the registrar under section 1097A (rectification of company registered office) other than an order or direction of the court;**]**

[F1193(h) F1194 . . . . . **]**

(i) any e-mail address, identification code or password deriving from a document delivered for the purpose of authorising or facilitating electronic filing procedures or providing information by telephone;

[F1195(j) the contents of any documents held by the registrar pending a decision of the Regulator of Community Interest Companies under—

(i) section 36A of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (eligibility for registration as community interest company),

(ii) section 38 of that Act (eligibility for conversion to community interest company), or

(iii) section 55 of that Act (eligibility for conversion from community interest company to charity),

and that the registrar is not later required to record;**]**

(k) any other material excluded from public inspection by or under any other enactment.

(2) A restriction applying by reference to material deriving from a particular description of document does not affect the availability for public inspection of the same information contained in material derived from another description of document in relation to which no such restriction applies.

(3) Material to which this section applies need not be retained by the registrar for longer than appears to the registrar reasonably necessary for the purposes for which the material was delivered to the registrar.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F1188 S. 1087(1)(ba) inserted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 12(2)**

F1189 Section 245(2) was applied to limited liability partnerships by regulation 19 of S.I. 2009/1804.

F1190 S. 1087(1)(bb)(bc) inserted (26.5.2015 for specified purposes) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 3 para. 8**; S.I. 2015/1329, reg. 3(a)

F1191 S. 1087(1)(da) inserted (26.5.2015 for specified purposes, otherwise 10.10.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 96(2)**, 164(1); S.I. 2015/1329, reg. 3(b); S.I. 2015/1689, reg. 4(a)

F1192 S. 1087(1)(ga) inserted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 99(2)**, 164(3)(h)(ii)

F1193 S. 1087(1)(h) substituted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 12(3)**

F1194 S. 1087(1)(h) omitted (6.4.2013) by virtue of The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 3(5)** (with reg. 6)

F1195 S. 1087(1)(j) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 260(6)** (with art. 10)

Modifications etc. (not altering text)

C1434 Ss. 1085-1091: power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1442 S. 1087 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 20(1)(c)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1443 S. 1087(1)(d)(i)(k)(2)(3) applied by S.I. 2014/3209, reg 20A Table A (as inserted (18.12.2015) by The Reports on Payments to Governments (Amendment) Regulations 2015 (S.I. 2015/1928), regs. 1(2), **3**)

C1444 Ss. 1085-1091 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 66 (with reg. 60) (as amended: (6.4.2013) by S.I. 2013/618, reg. 4 (with reg. 8(4); (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, 6(2)(3); (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), 20; (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), Sch. 3 para. 5; (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 1 para. 7; and (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), 17(3))

C1445 S. 1087 applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **61**

C1446 S. 1087 Amendment to earlier affecting provision SI 2009/2436 Sch. 1 para. 20 (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **35** (with Sch. Pt. 3)

C1447 S. 1087 modified in part (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **4(1)**, 39(i) (with regs. 1(2), 3(c))

Commencement Information

I376 S. 1087 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(f)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

[F1196 1087ZA Required particulars available for public inspection for limited period

(1) This section applies where—

(a) a notice is given to the registrar by a company under section 790VA (notification of changes to the registrar), or

(a) a document is delivered to the registrar by a company under section 790ZA (duty to notify registrar of changes).

(2) The notice or document, and any record of the information contained in the notice or document, must not be made available by the registrar for public inspection after the expiration of ten years beginning with the date on which the company is dissolved.

(3) The power in section 1084(2) (power of registrar to direct that records of a company that has been dissolved may be removed to the Public Record Office etc) may not be exercised in relation to the notice or document, or any record of the information contained in the notice or document, before the expiration of ten years beginning with the date on which the company is dissolved.

(4) Subsection (2) does not affect the availability for public inspection of the same information contained in material derived from another description of document in relation to which no such restriction applies.**]**

Textual Amendments

F1196 S. 1087ZA inserted (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), **16(6)**

Modifications etc. (not altering text)

C1448 S. 1087ZA applied (with modifications) by S.I. 2009/1804, reg. 66 (as amended (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), **17(3)(c)**)

C1449 S. 1087ZA applied (with modifications) by S.I. 2009/2436, regs. 3-5, Sch. 1 para. 20(1)(cza) (as inserted (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), **18(a)**)

C1450 S. 1087ZA applied (with modifications) by S.I. 2017/694, reg. 61A (as inserted (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), **20(2)**)

[F1197 1087A Information about a person's date of birth

(1) Information falls within this subsection at any time (" the relevant time ") if—

(a) it is DOB information,

(b) it is contained in a document delivered to the registrar that is protected at the relevant time as regards that information,

(c) the document is one in which such information is required to be stated, and

(d) if the document has more than one part, the part in which the information is contained is a part in which such information is required to be stated.

(2) "DOB information" is information as to the day of the month (but not the month or year) on which a relevant person was born.

(3) A "relevant person" is an individual—

(a) who is a director of a company, or

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(b) whose particulars are stated in a company's PSC register as a registrable person in relation to that company (see Part 21A).

(4) A document delivered to the registrar is "protected" at any time unless—

(a) it is an election period document,

(b) subsection (7) applies to it at the time, or

(c) it was registered before this section comes into force.

(5) As regards DOB information about a relevant person in his or her capacity as a director of the company, each of the following is an "election period document"—

(a) a statement of the company's proposed officers delivered under section 9 in circumstances where the subscribers gave notice of election under section 167A (election to keep information on central register) in respect of the company's register of directors when the statement was delivered;

(b) a document delivered by the company under section 167D (duty to notify registrar of changes while election in force).

(6) As regards DOB information about a relevant person in his or her capacity as someone whose particulars are stated in the company's PSC register, each of the following is an "election period document"—

(a) a statement of initial significant control delivered under section 9 in circumstances where the subscribers gave notice of election under section 790X in respect of the company when the statement was delivered;

(b) a document containing a statement or updated statement delivered by the company under section 790X(6)(b) or (7) (statement accompanying notice of election made after incorporation);

(c) a document delivered by the company under section 790ZA (duty to notify registrar of changes while election in force).

(7) This subsection applies to a document if—

(a) the DOB information relates to the relevant person in his or her capacity as a director of the company,

(b) an election under section 167A is or has previously been in force in respect of the company's register of directors,

(c) the document was delivered to the registrar at some point before that election took effect,

(d) the relevant person was a director of the company when that election took effect, and

(e) the document was either—

(i) a statement of proposed officers delivered under section 9 naming the relevant person as someone who was to be a director of the company, or

(ii) notice given under section 167 of the relevant person having become a director of the company.

(8) Information about a person does not cease to fall within subsection (1) when he or she ceases to be a relevant person and, to that extent, references in this section to a relevant person include someone who used to be a relevant person.

(9) Nothing in subsection (1) obliges the registrar to check other documents or (as the case may be) other parts of the document to ensure the absence of DOB information.

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Textual Amendments

F1197 Ss. 1087A, 1087B inserted (26.5.2015 for specified purposes, otherwise 10.10.2015 except for the insertion of s. 1087A(3)(b)(4)(a)(b)(5)(6)(7) and s. 1087B(4) which are in force on 30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 96(3)**, 164(1); S.I. 2015/1329, reg. 3(b); S.I. 2015/1689, reg. 4(a); S.I. 2016/321, reg. 6(d)

Modifications etc. (not altering text)

C1434 Ss. 1085-1091: power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1451 Ss. 1085-1091 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 66 (with reg. 60) (as amended: (6.4.2013) by S.I. 2013/618, reg. 4 (with reg. 8(4); (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, 6(2)(3); (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), 20; (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), Sch. 3 para. 5; (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 1 para. 7; and (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), 17(3))

C1452 S. 1087A applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **62**

1087B Disclosure of DOB information

(1) The registrar must not disclose restricted DOB information unless—

(a) the same information about the relevant person (whether in the same or a different capacity) is made available by the registrar for public inspection as a result of being contained in another description of document in relation to which no restriction under section 1087 applies (see subsection (2) of that section), or

(b) disclosure of the information by the registrar is permitted by subsection (2) or another provision of this Act.

(2) The registrar may disclose restricted DOB information—

(a) to a public authority specified for the purposes of this subsection by regulations made by the Secretary of State, or

(b) to a credit reference agency.

(3) Subsections (3) to (8) of section 243 (permitted use or disclosure of directors' residential addresses etc by the registrar) apply for the purposes of subsection (2) as for the purposes of that section (reading references there to protected information as references to restricted DOB information).

(4) This section does not apply to restricted DOB information about a relevant person in his or her capacity as someone whose particulars are stated in the company's PSC register if an application under regulations made under section 790ZG (regulations for protecting PSC particulars) has been granted with respect to that information and not been revoked.

(5) " Restricted DOB information " means information falling within section 1087A(1). **]**

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F1197 Ss. 1087A, 1087B inserted (26.5.2015 for specified purposes, otherwise 10.10.2015 except for the insertion of s. 1087A(3)(b)(4)(a)(b)(5)(6)(7) and s. 1087B(4) which are in force on 30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 96(3)**, 164(1); S.I. 2015/1329, reg. 3(b); S.I. 2015/1689, reg. 4(a); S.I. 2016/321, reg. 6(d)

Modifications etc. (not altering text)

C1434 Ss. 1085-1091: power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1451 Ss. 1085-1091 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 66 (with reg. 60) (as amended: (6.4.2013) by S.I. 2013/618, reg. 4 (with reg. 8(4); (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, 6(2)(3); (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), 20; (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), Sch. 3 para. 5; (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 1 para. 7; and (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), 17(3))

C1453 S. 1087B applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **63**

C1454 S. 1087B modified by S.I. 2009/2436, Sch. 2 para. 20(2A) (as inserted (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, **35** (with Sch. Pt. 3))

1088 Application to registrar to make address unavailable for public inspection

(1) The Secretary of State may make provision by regulations requiring the registrar, on application, to make an address on the register unavailable for public inspection.

(2) The regulations may make provision as to—

(a) who may make an application,

(b) the grounds on which an application may be made,

(c) the information to be included in and documents to accompany an application,

(d) the notice to be given of an application and of its outcome, and

(e) how an application is to be determined.

(3) Provision under subsection (2)(e) may in particular—

(a) confer a discretion on the registrar;

(b) provide for a question to be referred to a person other than the registrar for the purposes of determining the application.

(4) An application must specify the address to be removed from the register and indicate where on the register it is.

(5) The regulations may provide—

(a) that an address is not to be made unavailable for public inspection under this section unless replaced by a service address, and

(b) that in such a case the application must specify a service address.

(6) Regulations under this section are subject to affirmative resolution procedure.

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Modifications etc. (not altering text)

C1434 Ss. 1085-1091: power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1455 S. 1088 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 20(1)(c)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1456 Ss. 1085-1091 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), **regs. 2**, 66 (with reg. 60) (as amended: (6.4.2013) by S.I. 2013/618, **reg. 4** (with reg. 8(4); (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), **regs. 1**, 6(2)(3); (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), **regs. 1(1)**, 20; (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), Sch. 3 para. 5; (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 1 para. 7; (26.6.2017) by The Information about People with Significant Control (Amendment) Regulations 2017 (S.I. 2017/693), regs. 2, 27 (with **Sch. Pt. 2**); (26.4.2018) by The Companies (Disclosure of Address) (Amendment) Regulations 2018 (S.I. 2018/528), **regs. 1(1)**, 7 (with reg. 8); and (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), **regs. 1(2)**, 17(3))

C1457 S. 1088 applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **64** (as amended (26.4.2018) by The Companies (Disclosure of Address) (Amendment) Regulations 2018 (S.I. 2018/528), regs. 1(1), **6(2)** (with reg. 8))

Commencement Information

I377 S. 1088 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(f)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1089 Form of application for inspection or copy

(1) The registrar may specify the form and manner in which application is to be made for—

(a) inspection under section 1085, or

(b) a copy under section 1086.

(2) **[**F1198Applications in respect of an enhanced disclosure document**]** may be submitted to the registrar in hard copy or electronic form, as the applicant chooses.

This does not affect the registrar's power under subsection (1) above to impose requirements in respect of other matters.

Textual Amendments

F1198 Words in s. 1089(2) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 22**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C1434 Ss. 1085-1091: power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1458 S. 1089 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 19(4)(f)}

C1459 S. 1089 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 12(6)(d)}

C1460 S. 1089 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 20(1)(d)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1461 S. 1089 applied by S.I. 2014/3209, reg 20A Table A (as inserted (18.12.2015) by The Reports on Payments to Governments (Amendment) Regulations 2015 (S.I. 2015/1928), regs. 1(2), **3**)

C1462 Ss. 1085-1091 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 66 (with reg. 60) (as amended: (6.4.2013) by S.I. 2013/618, reg. 4 (with reg. 8(4); (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, 6(2)(3); (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), 20; (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), Sch. 3 para. 5; (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 1 para. 7; and (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), 17(3))

C1463 S. 1089 applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **65**

C1464 Ss. 1089-1091 modified (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **4(1)**, 39(j) (with regs. 1(2), 3(c))

Commencement Information

I378 S. 1089 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(f)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1090 Form and manner in which copies to be provided

(1) The following provisions apply as regards the form and manner in which copies are to be provided under section 1086.

(2) **[**[F1199]Copies of an enhanced disclosure document**]** must be provided in hard copy or electronic form, as the applicant chooses.

This is subject to the following proviso.

(3) The registrar is not obliged by subsection (2) to provide copies in electronic form of a document that was delivered to the registrar in hard copy form if—

(a) the document was delivered to the registrar on or before 31st December 1996, or

(b) the document was delivered to the registrar on or before 31st December 2006 and ten years or more elapsed between the date of delivery and the date of receipt of the first application for a copy on or after 1st January 2007.

(4) Subject to the preceding provisions of this section, the registrar may determine the form and manner in which copies are to be provided.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F1199 Words in s. 1090(2) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 23**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C1434 Ss. 1085-1091: power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1464 Ss. 1089-1091 modified (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **4(1)**, 39(j) (with regs. 1(2), 3(c))

C1465 S. 1090 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 19(4)(g)}

C1466 S. 1090 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 12(6)(e)}

C1467 S. 1090 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 20(1)(d)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1468 S. 1090(1)(2)(4) applied by S.I. 2014/3209, reg 20A Table A (as inserted (18.12.2015) by The Reports on Payments to Governments (Amendment) Regulations 2015 (S.I. 2015/1928), regs. 1(2), **3**)

C1469 Ss. 1085-1091 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 66 (with reg. 60) (as amended: (6.4.2013) by S.I. 2013/618, reg. 4 (with reg. 8(4); (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, 6(2)(3); (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), 20; (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), Sch. 3 para. 5; (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 1 para. 7; and (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), 17(3))

C1470 S. 1090 applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **66**

Commencement Information

I379 S. 1090 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(f)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1091 Certification of copies as accurate

(1) Copies provided under section 1086 in hard copy form must be certified as true copies unless the applicant dispenses with such certification.

(2) Copies so provided in electronic form must not be certified as true copies unless the applicant expressly requests such certification.

(3) A copy provided under section 1086, certified by the registrar (whose official position it is unnecessary to prove) to be an accurate record of the contents of the original document, is in all legal proceedings admissible in evidence—

(a) as of equal validity with the original document, and

(b) as evidence (in Scotland, sufficient evidence) of any fact stated in the original document of which direct oral evidence would be admissible.

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(4) The Secretary of State may make provision by regulations as to the manner in which such a certificate is to be provided in a case where the copy is provided in electronic form.

(5) Except in the case of **[**[F1200]an enhanced disclosure document**]** (see section 1078), copies provided by the registrar may, instead of being certified in writing to be an accurate record, be sealed with the registrar's official seal.

Textual Amendments

F1200 Words in s. 1091(5) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 24**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C1434 Ss. 1085-1091: power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1464 Ss. 1089-1091 modified (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **4(1)**, 39(j) (with regs. 1(2), 3(c))

C1471 S. 1091 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 19(4)(h)}

C1472 S. 1091 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 12(6)(f)}

C1473 S. 1091 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 20(1)(e)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1474 S. 1091 applied by S.I. 2014/3209, reg 20A Table A (as inserted (18.12.2015) by The Reports on Payments to Governments (Amendment) Regulations 2015 (S.I. 2015/1928), regs. 1(2), **3**)

C1475 Ss. 1085-1091 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 66 (with reg. 60) (as amended: (6.4.2013) by S.I. 2013/618, reg. 4 (with reg. 8(4); (10.10.2015) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2015 (S.I. 2015/1695), regs. 1, 6(2)(3); (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), 20; (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), Sch. 3 para. 5; (30.6.2016) by The Companies and Limited Liability Partnerships (Filing Requirements) Regulations 2016 (S.I. 2016/599), reg. 1, Sch. 1 para. 7; and (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), 17(3))

C1476 S. 1091 applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **67**

Commencement Information

I380 S. 1091 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(f)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1092 Issue of process for production of records kept by the registrar

(1) No process for compelling the production of a record kept by the registrar shall issue from any court except with the permission of the court.

(2) Any such process shall bear on it a statement that it is issued with the permission of the court.

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Modifications etc. (not altering text)

C1477 S. 1092 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1478 S. 1092 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(d)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I381 S. 1092 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(f)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

Correction or removal of material on the register

1093 Registrar's notice to resolve inconsistency on the register

(1) Where it appears to the registrar that the information contained in a document delivered to the registrar is inconsistent with other information on the register, the registrar may give notice to the company to which the document relates—

(a) stating in what respects the information contained in it appears to be inconsistent with other information on the register, and

(b) requiring the company to take steps to resolve the inconsistency.

(2) The notice must—

(a) state the date on which it is issued, and

(b) require the delivery to the registrar, within 14 days after that date, of such replacement or additional documents as may be required to resolve the inconsistency.

(3) If the necessary documents are not delivered within the period specified, an offence is committed by—

(a) the company, and

(b) every officer of the company who is in default.

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding **[**[F1201]one-tenth of level 5 on the standard scale**][**[F1201]one-tenth of the greater of £5,000 or level 4 on the standard scale**]**.

Textual Amendments

F1201 Words in s. 1093(4) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(23)** (with reg. 5(1))

Modifications etc. (not altering text)

C1479 Ss. 1093-1098 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **67** (with reg. 60, Sch. 1 paras. 30, 31, 34, 35) (as amended (6.4.2013) by S.I. 2013/618, reg. 5 (with reg. 8(4)) and as amended (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 14(6)** (with

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reg. 5(1)) and as amended (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **21**)

C1480 Ss. 1093-1097 power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1481 S. 1093 modified by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), reg. 13(1B), **Sch. 1A para. 3** (as inserted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), reg. 37) (as amended (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **45(a)** (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), 5(a)-(f)); 2020 c. 1, Sch. 5 para. 1(1))

1094 Administrative removal of material from the register

(1) The registrar may remove from the register anything that there was power, but no duty, to include.

(2) This power is exercisable, in particular, so as to remove—

(a) unnecessary material within the meaning of section 1074, and

(b) material derived from a document that has been replaced under—

section 1076 (replacement of document not meeting requirements for proper delivery), or

section 1093 (notice to remedy inconsistency on the register).

(3) This section does not authorise the removal from the register of—

(a) anything whose registration has had legal consequences in relation to the company as regards—

(i) its formation,

(ii) a change of name,

(iii) its re-registration,

(iv) its becoming or ceasing to be a community interest company,

(v) a reduction of capital,

(vi) a change of registered office,

(vii) the registration of a charge, [F1202]...

(viii) its dissolution**[**[F1203], or**]**

[[F1204](ix) a change in its membership particulars of which were delivered to the registrar under section 128E (duty to notify registrar of changes while election to keep information on central register is in force);**]**

(b) an address that is a person's registered address for the purposes of section 1140 (service of documents on directors, secretaries and others).

(4) On or before removing any material under this section (otherwise than at the request of the company) the registrar must give notice—

(a) to the person by whom the material was delivered (if the identity, and name and address of that person are known), or

(b) to the company to which the material relates (if notice cannot be given under paragraph (a) and the identity of that company is known).

(5) The notice must—

(a) state what material the registrar proposes to remove, or has removed, and on what grounds, and

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(b) state the date on which it is issued.

Textual Amendments

F1202 Word in s. 1094(3)(a)(vii) omitted (30.6.2016) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 32(3)(a)**; S.I. 2016/321, reg. 6(c)

F1203 Word in s. 1094(3)(a)(viii) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 32(3)(b)**; S.I. 2016/321, reg. 6(c)

F1204 S. 1094(3)(a)(ix) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 32(3)(c)**; S.I. 2016/321, reg. 6(c)

Modifications etc. (not altering text)

C1480 Ss. 1093-1097 power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1482 Ss. 1093-1098 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 67 (with reg. 60, Sch. 1 paras. 30, 31, 34, 35) (as amended (6.4.2013) by S.I. 2013/618, reg. 5 (with reg. 8(4)) and as amended (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), Sch. 3 para. 14(6) (with reg. 5(1)) and as amended (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), 21)

C1483 S. 1094 modified by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), reg. 13(1B), **Sch. 1A para. 4** (as inserted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), reg. 37) (as amended (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **45(b)(c)** (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), 5(a)-(f)); 2020 c. 1, Sch. 5 para. 1(1))

1095 Rectification of register on application to registrar

(1) The Secretary of State may make provision by regulations requiring the registrar, on application, to remove from the register material of a description specified in the regulations that—

(a) derives from anything invalid or ineffective or that was done without the authority of the company, or

(b) is factually inaccurate, or is derived from something that is factually inaccurate or forged.

(2) The regulations may make provision as to—

(a) who may make an application,

(b) the information to be included in and documents to accompany an application,

(c) the notice to be given of an application and of its outcome,

(d) a period in which objections to an application may be made, and

(e) how an application is to be determined.

(3) An application must—

(a) specify what is to be removed from the register and indicate where on the register it is, and

(b) be accompanied by a statement that the material specified in the application complies with this section and the regulations.

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(4) If no objections are made to the application, the registrar may accept the statement as sufficient evidence that the material specified in the application should be removed from the register.

[F1205(4A) Subsections (4B) and (4C) apply, in place of subsection (4), in a case where—

(a) the material specified in the application is material naming a person—

(i) in a statement of a company's proposed officers as a person who is to be a director of the company, or

(ii) in a notice given by a company under section 167 or 167D as a person who has become a director of the company, and

(b) the application is made by or on behalf of the person named and is accompanied by a statement that the person did not consent to act as director of the company.

(4B) If the company provides the registrar with the necessary evidence within the time required by the regulations, the registrar must not remove the material from the register.

(4C) If the company does not provide the registrar with the necessary evidence within that time—

(a) the material is conclusively presumed for the purposes of this section to be derived from something that is factually inaccurate, and

(b) the registrar must accept the applicant's statement as sufficient evidence that the material should be removed from the register.

(4D) "The necessary evidence" is—

(a) evidence sufficient to satisfy the registrar that the person did consent to act as director of the company, plus

(b) a statement by the company that the evidence provided by it is true and is not misleading or deceptive in any material particular.**]**

(5) Where anything is removed from the register under this section the registration of which had legal consequences as mentioned in section 1094(3), any person appearing to the court to have a sufficient interest may apply to the court for such consequential orders as appear just with respect to the legal effect (if any) to be accorded to the material by virtue of its having appeared on the register.

(6) Regulations under this section are subject to affirmative resolution procedure.

Textual Amendments

F1205 S. 1095(4A)-(4D) inserted (6.4.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 102(1)**, 164(1) (with s. 102(2)); S.I. 2016/321, reg. 3(a)

Modifications etc. (not altering text)

C1480 Ss. 1093-1097 power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1484 Ss. 1093-1098 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 67 (with reg. 60, Sch. 1 paras. 30, 31, 34, 35) (as amended (6.4.2013) by S.I. 2013/618, reg. 5 (with reg. 8(4)) and as amended (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), Sch. 3 para. 14(6) (with

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reg. 5(1)) and as amended (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), 21)

C1485 S. 1095 modified by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), reg. 13(1B), **Sch. 1A para. 5** (as inserted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), regs. 1(2), **37**) (as amended (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **45(d)** (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), **5(a)-(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**))

Commencement Information

I382 S. 1095 wholly in force at 1.10.2009; s. 1095 not in force at Royal Assent, see s. 1300; s. 1095 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1095 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(r)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

[F1206 1095A Rectification of register to resolve a discrepancy

(1) This section applies where—

(a) a discrepancy in information relating to a company is reported to the registrar under regulation 30A(2) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (requirement to report discrepancies in information about beneficial ownership), and

(b) the registrar determines, having investigated the discrepancy under regulation 30A(5) of those Regulations, that there is a discrepancy.

(2) The registrar may remove material from the register if doing so is necessary to resolve the discrepancy.**]**

Textual Amendments

F1206 S. 1095A inserted (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), **16(7)**

Modifications etc. (not altering text)

C1486 S. 1095A applied (with modifications) by S.I. 2009/1804, reg. 67 (as amended (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), **17(4)**)

C1487 S. 1095A applied (with modifications) by S.I. 2009/2436, regs. 3-5, Sch. 1 para. 20(1)(f) (as inserted (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), **18(b)**)

C1488 S. 1095A applied (with modifications) by S.I. 2017/694, reg. 67A (as inserted (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), **20(3)**)

1096 Rectification of the register under court order

(1) The registrar shall remove from the register any material—

(a) that derives from anything that the court has declared to be invalid or ineffective, or to have been done without the authority of the company, or

(b) that a court declares to be factually inaccurate, or to be derived from something that is factually inaccurate, or forged,

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and that the court directs should be removed from the register.

(2) The court order must specify what is to be removed from the register and indicate where on the register it is.

(3) The court must not make an order for the removal from the register of anything the registration of which had legal consequences as mentioned in section 1094(3) unless satisfied—

(a) that the presence of the material on the register has caused, or may cause, damage to the company, and

(b) that the company's interest in removing the material outweighs any interest of other persons in the material continuing to appear on the register.

(4) Where in such a case the court does make an order for removal, it may make such consequential orders as appear just with respect to the legal effect (if any) to be accorded to the material by virtue of its having appeared on the register.

(5) A copy of the court's order must be sent to the registrar for registration.

(6) This section does not apply where the court has other, specific, powers to deal with the matter, for example under—

(a) the provisions of Part 15 relating to the revision of defective accounts and reports, or

(b) section **[**[F1207]859M (rectification of register)**]**.

Textual Amendments

F1207 Words in s. 1096(6)(b) substituted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 3(6)** (with reg. 6)

Modifications etc. (not altering text)

C1480 Ss. 1093-1097 power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1489 Ss. 1093-1098 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **67** (with reg. 60, Sch. 1 paras. 30, 31, 34, 35) (as amended (6.4.2013) by S.I. 2013/618, reg. 5 (with **reg. 8(4)**) and as amended (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 14(6)** (with reg. 5(1)) and as amended (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **21** and (4.3.2024) by The Limited Liability Partnerships (Application of Company Law) Regulations 2024 (S.I. 2024/234), regs. 1(2), **38**; S.I. 2024/269, **reg. 2(a)**)

C1490 S. 1096 modified (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **4(1)**, 39(k) (with regs. 1(2), 3(c))

C1491 S. 1096(1)-(5) modified by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), reg. 13(1B), **Sch. 1A para. 6** (as inserted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), regs. 1(2), **37**) (as amended (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **45(d)** (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), **5(a)-(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

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1097 Powers of court on ordering removal of material from the register

(1) Where the court makes an order for the removal of anything from the register under section 1096 (rectification of the register), it may give directions under this section.

(2) It may direct that any note on the register that is related to the material that is the subject of the court's order shall be removed from the register.

(3) It may direct that its order shall not be available for public inspection as part of the register.

(4) It may direct—

(a) that no note shall be made on the register as a result of its order, or

(b) that any such note shall be restricted to such matters as may be specified by the court.

(5) The court shall not give any direction under this section unless it is satisfied—

(a) that—

(i) the presence on the register of the note or, as the case may be, of an unrestricted note, or

(ii) the availability for public inspection of the court's order,

may cause damage to the company, and

(b) that the company's interest in non-disclosure outweighs any interest of other persons in disclosure.

Modifications etc. (not altering text)

C1480 Ss. 1093-1097 power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1492 Ss. 1093-1098 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **67** (with reg. 60, Sch. 1 paras. 30, 31, 34, 35) (as amended (6.4.2013) by S.I. 2013/618, reg. 5 (with reg. 8(4)) and as amended (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 14(6)** (with reg. 5(1)) and as amended (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **21**)

C1493 S. 1097 modified (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **4(1)**, 39(l) (with regs. 1(2), 3(c))

C1494 S. 1097 modified by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), reg. 13(1B), **Sch. 1A para. 6** (as inserted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), regs. 1(2), **37**) (as amended (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **45(d)** (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), **5(a)-(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

[F1208 1097A Rectification of register relating to company registered office

(1) The Secretary of State may make provision by regulations requiring the registrar, on application, to change the address of a company's registered office if the registrar is satisfied that the company is not authorised to use the address.

(2) The applicant and the company must provide such information as the registrar may require for the purposes of determining such an application.

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(3) The regulations may make provision as to—

(a) who may make an application,

(b) the information to be included in and documents to accompany an application,

(c) the notice to be given of an application and of its outcome,

(d) the period in which objections to an application may be made,

(e) how an application is to be determined, including in particular the evidence, or descriptions of evidence, which the registrar may without further enquiry rely on to be satisfied that the company is authorised to use the address,

(f) the referral of the application, or any question relating to the application, by the registrar for determination by the court,

(g) the registrar requiring a company to provide an address to be the company's registered office,

(h) the nomination by the registrar of an address (a "default address") to be the company's registered office,

(i) the effect of the registration of any change.

(4) Subject to further provision which may be made by virtue of subsection (3)(i), the change takes effect upon it being registered by the registrar, but until the end of the period of 14 days beginning with the date on which it is registered a person may validly serve any document on the company at the address previously registered.

(5) Provision made by virtue of subsection (3)(i) may in particular include provision, in relation to the registration of a default address—

(a) for the suspension, for up to 28 days beginning with the date on which it is registered, of duties of the company under this Act relating to the inspection of company records or to the provision, disclosure or display of information,

(b) that the default address may not be used for the purpose of keeping the company's registers, indexes or other documents,

(c) for there to be no requirement that documents delivered to the default address for the company must be opened,

(d) for the collection of such documents by the company, or the forwarding of such documents to the company,

(e) for the circumstances in which, and the period of time after which, such documents may be destroyed,

(f) about evidence, or descriptions of evidence, that the registrar may require a company to provide if giving notice to the registrar to change the address of its registered office from a default address.

(6) The applicant or the company may appeal the outcome of an application under this section to the court.

(7) On an appeal, the court must direct the registrar to register such address as the registered office of the company as the court considers appropriate in all the circumstances of the case.

(8) The regulations may make further provision about an appeal and in particular—

(a) provision about the time within which an appeal must be brought and the grounds on which an appeal may be brought,

(b) provision for the suspension, pending the outcome of an appeal, of duties of the company under this Act relating to the inspection of company records or to the provision, disclosure or display of information,

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(c) further provision about directions by virtue of subsection (7).

(9) The regulations may include such provision applying (including applying with modifications), amending or repealing an enactment contained in this Act as the Secretary of State considers necessary or expedient in consequence of any provision made by the regulations.

(10) Regulations under this section are subject to affirmative resolution procedure.**]**

Textual Amendments

F1208 S. 1097A inserted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 99(1)**, 164(3)(h)(ii)

Modifications etc. (not altering text)

C1495 Ss. 1093-1098 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **67** (with reg. 60, Sch. 1 paras. 30, 31, 34, 35) (as amended (6.4.2013) by S.I. 2013/618, reg. 5 (with reg. 8(4)) and as amended (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 14(6)** (with reg. 5(1)) and as amended (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), **21**)

1098 Public notice of removal of certain material from the register

(1) The registrar must cause to be published—

(a) in the Gazette, or

(b) in accordance with section 1116 (alternative means of giving public notice),

notice of the removal from the register of **[**F1209an enhanced disclosure document**]** (see section 1078) or of any material derived from such a document.

(2) The notice must state the name and registered number of the company, the description of document and the date of receipt.

Textual Amendments

F1209 Words in s. 1098(1) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 25**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C1496 S. 1098 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 19(4)(i)}, Sch. 1 para. 5

C1497 S. 1098 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 12(6)(g)}, Sch. 1 para. 5

C1498 Ss. 1093-1098 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 67 (with reg. 60, Sch. 1 paras. 30, 31, 34, 35) (as amended (6.4.2013) by S.I. 2013/618, reg. 5 (with reg. 8(4)) and as amended (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), Sch. 3 para. 14(6) (with

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reg. 5(1)) and as amended (6.4.2016) by The Companies (Address of Registered Office) Regulations 2016 (S.I. 2016/423), regs. 1(1), 21)

The registrar's index of company names

1099 The registrar's index of company names

(1) The registrar of companies must keep an index of the names of the companies and other bodies to which this section applies.

This is "the registrar's index of company names".

(2) This section applies to—

(a) UK-registered companies;

(b) any body to which any provision of the Companies Acts applies by virtue of regulations under section 1043 (unregistered companies); and

(c) overseas companies that have registered particulars with the registrar under section 1046, other than companies that appear to the registrar not to be required to do so.

(3) This section also applies to—

(a) limited partnerships registered in the United Kingdom;

(b) limited liability partnerships incorporated in the United Kingdom;

[F1210(c) UK Economic Interest Groupings;

(ca) EEIG establishments, within the meaning of regulation 2(1) of the European Economic Interest Grouping Regulations 1989;**]**

(d) open-ended investment companies authorised in the United Kingdom;

(e) societies registered under the Industrial and Provident Societies Act 1965 (c. 12) or **[**F1211the Co-operative and Community Benefit Societies Act 2014**]**.

[F1212(f) protected cell companies registered under Part 4 of the Risk Transformation Regulations 2017.**]**

[F1213(f) charitable incorporated organisations within the meaning of Part 11 of the Charities Act 2011;

(g) Scottish charitable incorporated organisations within the meaning of Chapter 7, Part 1 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10)**]**

(4) The Secretary of State may by order amend subsection (3)—

(a) by the addition of any description of body;

(b) by the deletion of any description of body.

(5) Any such order is subject to negative resolution procedure.

Textual Amendments

F1210 S. 1099(3)(c)(ca) substituted for s. 1099(3)(c) (31.12.2020) by The European Economic Interest Grouping (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1299), regs. 1, **62(2)**; 2020 c. 1, Sch. 5 para. 1(1)

F1211 Words in s. 1099(3)(e) substituted (1.8.2014) by Co-operative and Community Benefit Societies Act 2014 (c. 14), s. 154, **Sch. 4 para. 101** (with Sch. 5)

F1212 S. 1099(3)(f) inserted (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), reg. 1(2), **Sch. 4 para. 4(c)** (with reg. 189)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F1213 S. 1099(3)(f)(g) inserted (1.1.2018) by The Index of Company Names (Listed Bodies) Order 2017 (S.I. 2017/1233), arts. 1, **2**

Commencement Information

I383 S. 1099 wholly in force at 1.10.2009; s. 1099 not in force at Royal Assent, see s. 1300; s. 1099 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1099 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(r)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1100 Right to inspect index

Any person may inspect the registrar's index of company names.

1101 Power to amend enactments relating to bodies other than companies

(1) The Secretary of State may by regulations amend the enactments relating to any description of body for the time being within section 1099(3) (bodies other than companies whose names are to be entered in the registrar's index), so as to—

(a) require the registrar to be provided with information as to the names of bodies registered, incorporated, authorised or otherwise regulated under those enactments, and

(b) make provision in relation to such bodies corresponding to that made by—

section 66 (company name not to be the same as another in the index), and

sections 67 and 68 (power to direct change of company name in case of similarity to existing name).

(2) Regulations under this section are subject to affirmative resolution procedure.

Commencement Information

I384 S. 1101 wholly in force at 1.10.2009; s. 1101 not in force at Royal Assent, see s. 1300; s. 1101 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1101 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(r)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Language requirements: translation

1102 Application of language requirements

(1) The provisions listed below apply to all documents required to be delivered to the registrar under any provision of—

(a) the Companies Acts, or

(b) the Insolvency Act 1986 (c. 45) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

(2) The Secretary of State may make provision by regulations applying all or any of the listed provisions, with or without modifications, in relation to documents delivered to the registrar under any other enactment.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The provisions are—

section 1103 (documents to be drawn up and delivered in English),
section 1104 (documents relating to Welsh companies),
section 1105 (documents that may be drawn up and delivered in other languages),
section 1107 (certified translations).

(4) Regulations under this section are subject to negative resolution procedure.

Modifications etc. (not altering text)

C1499 S. 1102 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(1)(b)} (with transitional provisions in Sch. 1 para. 2)

Commencement Information

I385 S. 1102 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(g)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1103 Documents to be drawn up and delivered in English

(1) The general rule is that all documents required to be delivered to the registrar must be drawn up and delivered in English.

(2) This is subject to—

section 1104 (documents relating to Welsh companies) and
section 1105 (documents that may be drawn up and delivered in other languages).

Modifications etc. (not altering text)

C1500 S. 1103 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), reg. 4(1)(b) (with transitional provisions in Sch. 1 para. 2)

C1501 Ss. 1103-1107 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **68** (with reg. 60) (as amended (6.4.2013) by S.I. 2013/618, reg. 6 (with reg. 8(4)))

C1502 S. 1103 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 15**

C1503 S. 1103 applied (with modifications) by S.I. 2014/3209, reg 20B Table B (as inserted (18.12.2015) by The Reports on Payments to Governments (Amendment) Regulations 2015 (S.I. 2015/1928), regs. 1(2), **4**)

C1504 S. 1103 applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **68**

C1505 S. 1103 applied (with modifications) by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), **reg. 13A(1)(2)** (as inserted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), reg. 15(1) (with **regs. 2**, 15(2))) (as amended (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **10** (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), **5(a)-(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

Commencement Information

I386 S. 1103 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(g)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

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1104 Documents relating to Welsh companies

(1) Documents relating to a Welsh company may be drawn up and delivered to the registrar in Welsh.

(2) On delivery to the registrar any such document must be accompanied by a certified translation into English, unless it is—

(a) of a description excepted from that requirement by regulations made by the Secretary of State, or

(b) in a form prescribed in Welsh (or partly in Welsh and partly in English) by virtue of section 26 of the Welsh Language Act 1993 (c. 38).

(3) Where a document is properly delivered to the registrar in Welsh without a certified translation into English, the registrar must obtain such a translation if the document is to be available for public inspection.

The translation is treated as if delivered to the registrar in accordance with the same provision as the original.

(4) A Welsh company may deliver to the registrar a certified translation into Welsh of any document in English that relates to the company and is or has been delivered to the registrar.

(5) Section 1105 (which requires certified translations into English of documents delivered to the registrar in another language) does not apply to a document relating to a Welsh company that is drawn up and delivered in Welsh.

Modifications etc. (not altering text)

C1506 S. 1104 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(1)(b)} (with transitional provisions in Sch. 1 para. 2)

C1507 Ss. 1103-1107 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **68** (with reg. 60) (as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **22(3)(a)** and as amended (6.4.2013) by S.I. 2013/618, reg. 6 (with reg. 8(4)))

C1508 S. 1104 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 15**

C1509 S. 1104 power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1510 S. 1104 modified (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **4(1)**, 39(m) (with regs. 1(2), 3(c))

Commencement Information

I387 S. 1104 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(g)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1105 Documents that may be drawn up and delivered in other languages

(1) Documents to which this section applies may be drawn up and delivered to the registrar in a language other than English, but when delivered to the registrar they must be accompanied by a certified translation into English.

(2) This section applies to—

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(a) agreements required to be forwarded to the registrar under Chapter 3 of Part 3 (agreements affecting the company's constitution);

(b) documents required to be delivered under section 400(2)(e) or section 401(2)(f) (company included in accounts of larger group: required to deliver copy of group accounts);

(c) **[**[F1214]certified copies**]** delivered under Part 25 (company charges);

(d) documents of any other description specified in regulations made by the Secretary of State.

(3) Regulations under this section are subject to negative resolution procedure.

Textual Amendments

F1214 Words in s. 1105(2)(c) substituted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 3(7)** (with reg. 6)

Modifications etc. (not altering text)

C1511 S. 1105 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(3)} (with transitional provisions in Sch. 1 para. 2)

C1512 S. 1105 applied (1.1.2007) by The Companies (Registrar, Languages and Trading Disclosures) Regulations 2006 (S.I. 2006/3429), **reg. 4**

C1513 Ss. 1103-1107 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **68** (with reg. 60) (as amended (1.10.2012 with application in accordance with reg. 2 of the amending S.I.) by S.I. 2012/2301, regs. 1, **22(3)(b)** and as amended (6.4.2013) by S.I. 2013/618, reg. 6 (with reg. 8(4)))

C1514 S. 1105(1) applied by S.I. 2014/3209, reg 20B Table B (as inserted (18.12.2015) by The Reports on Payments to Governments (Amendment) Regulations 2015 (S.I. 2015/1928), regs. 1(2), **4)**

C1515 S. 1105 applied (with modifications) by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), **reg. 13A(1)(2)** (as inserted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), regs. 1(2), **15(1)** (with regs. 2, 15(2)) (as amended (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **10** (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), **5(a)-(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

Commencement Information

I388 S. 1105 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(g)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1106 Voluntary filing of translations

(1) A company may deliver to the registrar one or more certified translations of any document relating to the company that is or has been delivered to the registrar.

(2) The Secretary of State may by regulations specify—

(a) the languages, and

(b) the descriptions of document,

in relation to which this facility is available.

(3) The regulations must provide that it is available as from 1st January 2007—

(a) in relation to all the official languages of the European Union, and

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(b) in relation to all documents subject to the Directive disclosure requirements (see section 1078).

(4) The power of the registrar to impose requirements as to the form and manner of delivery includes power to impose requirements as to the identification of the original document and the delivery of the translation in a form and manner enabling it to be associated with the original.

(5) Regulations under this section are subject to negative resolution procedure.

(6) This section does not apply where the original document was delivered to the registrar before this section came into force.

Modifications etc. (not altering text)

C1516 Ss. 1103-1107 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **68** (with reg. 60) (as amended (6.4.2013) by S.I. 2013/618, reg. 6 (with reg. 8(4)))

C1517 S. 1106(1) applied by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), **reg. 13A(3)(4)** (as inserted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), reg. {15(3)} (with regs. 2, 15(2)))

C1518 S. 1106(1)(3)(4) applied (with modifications) by S.I. 2014/3209, reg 20B Table B (as inserted (18.12.2015) by The Reports on Payments to Governments (Amendment) Regulations 2015 (S.I. 2015/1928), regs. 1(2), **4**)

C1519 S. 1106(2)(4) applied (with modifications) by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), **reg. 13A(3)(4)** (as inserted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), regs. 1(2), **15(3)** (with regs. 2, 15(2)) (as amended (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **10** (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), **5(a)-(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

Commencement Information

I389 S. 1106 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(g)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1107 Certified translations

(1) In this Part a "certified translation" means a translation certified to be a correct translation.

(2) In the case of any discrepancy between the original language version of a document and a certified translation—

(a) the company may not rely on the translation as against a third party, but

(b) a third party may rely on the translation unless the company shows that the third party had knowledge of the original.

(3) A "third party" means a person other than the company or the registrar.

Modifications etc. (not altering text)

C1520 S. 1107 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(1)(b)} (with transitional provisions in Sch. 1 para. 2)

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C1521 Ss. 1103-1107 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **68** (with reg. 60) (as amended (6.4.2013) by S.I. 2013/618, reg. 6 (with reg. 8(4)))

C1522 S. 1107 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 15**

C1523 S. 1107 applied (with modifications) by S.I. 2014/3209, reg 20B Table B (as inserted (18.12.2015) by The Reports on Payments to Governments (Amendment) Regulations 2015 (S.I. 2015/1928), regs. 1(2), **4**)

C1524 S. 1107 applied (with modifications) by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), **reg. 13A(1)(2)** (as inserted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), regs. 1(2), **15(1)** (with regs. 2, 15(2)) (as amended (31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **10** (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), **5(a)-(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**)

Commencement Information

I390 S. 1107 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(g)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

Language requirements: transliteration

1108 Transliteration of names and addresses: permitted characters

(1) Names and addresses in a document delivered to the registrar must contain only letters, characters and symbols (including accents and other diacritical marks) that are permitted.

(2) The Secretary of State may make provision by regulations—

(a) as to the letters, characters and symbols (including accents and other diacritical marks) that are permitted, and

(b) permitting or requiring the delivery of documents in which names and addresses have not been transliterated into a permitted form.

(3) Regulations under this section are subject to negative resolution procedure.

Modifications etc. (not altering text)

C1525 Ss. 1108-1110 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1526 Ss. 1108-1110 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(f)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I391 S. 1108 wholly in force at 1.10.2009; s. 1108 not in force at Royal Assent, see s. 1300; s. 1108 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1108 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(r)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

1109 Transliteration of names and addresses: voluntary transliteration into Roman characters

(1) Where a name or address is or has been delivered to the registrar in a permitted form using other than Roman characters, **[**F1215the company (or other body) to which the document relates**]** may deliver to the registrar a transliteration into Roman characters.

(2) The power of the registrar to impose requirements as to the form and manner of delivery includes power to impose requirements as to the identification of the original document and the delivery of the transliteration in a form and manner enabling it to be associated with the original.

Textual Amendments

F1215 Words in s. 1109(1) substituted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 13**

Modifications etc. (not altering text)

C1527 Ss. 1108-1110 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1528 Ss. 1108-1110 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(f)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

1110 Transliteration of names and addresses: certification

(1) The Secretary of State may make provision by regulations requiring the certification of transliterations and prescribing the form of certification.

(2) Different provision may be made for compulsory and voluntary transliterations.

(3) Regulations under this section are subject to negative resolution procedure.

Modifications etc. (not altering text)

C1529 Ss. 1108-1110 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1530 Ss. 1108-1110 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(f)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I392 S. 1110 wholly in force at 1.10.2009; s. 1110 not in force at Royal Assent, see s. 1300; s. 1110 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1110 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(r)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Status: *Point in time view as at 31/12/2020.*
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Supplementary provisions

1111 Registrar's requirements as to certification or verification

(1) Where a document required or authorised to be delivered to the registrar under any enactment is required—

(a) to be certified as an accurate translation or transliteration, or

(b) to be certified as a correct copy or verified,

the registrar may impose requirements as to the person, or description of person, by whom the certificate or verification is to be given.

(2) The power conferred by section 1068 (registrar's requirements as to form, authentication and manner of delivery) is exercisable in relation to the certificate or verification as if it were a separate document.

(3) Requirements imposed under this section must not be inconsistent with requirements imposed by any enactment with respect to the certification or verification of the document concerned.

Modifications etc. (not altering text)

C1531 S. 1111 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1532 S. 1111 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), regs. 3-5, **Sch. 1 para. 17(2)(g)** (with transitional provisions and savings in regs. 7, 9, Sch. 2)

Commencement Information

I393 S. 1111 wholly in force at 1.1.2007, see s. 1300 and S.I. 2006/3428, **art. 2(1)(h)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1112 General false statement offence

(1) It is an offence for a person knowingly or recklessly—

(a) to deliver or cause to be delivered to the registrar, for any purpose of the Companies Acts, a document, or

(b) to make to the registrar, for any such purpose, a statement,

that is misleading, false or deceptive in a material particular.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

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Modifications etc. (not altering text)

C1533 S. 1112 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(1)(c)} (with transitional provisions in Sch. 1 para. 2)

C1534 S. 1112 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **69** (with reg. 60, Sch. 1 paras. 32, 34, 35)

C1535 Ss. 1112,1113 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 16**

C1536 S. 1112 applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **69**

C1537 Ss. 1112-1113 power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1538 S. 1112 modified (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **4(1)**, 39(n) (with regs. 1(2), 3(c))

1113 Enforcement of company's filing obligations

(1) This section applies where a company has made default in complying with any obligation under the Companies Acts—

(a) to deliver a document to the registrar, or

(b) to give notice to the registrar of any matter.

(2) The registrar, or any member or creditor of the company, may give notice to the company requiring it to comply with the obligation.

(3) If the company fails to make good the default within 14 days after service of the notice, the registrar, or any member or creditor of the company, may apply to the court for an order directing the company, and any specified officer of it, to make good the default within a specified time.

(4) The court's order may provide that all costs (in Scotland, expenses) of or incidental to the application are to be borne by the company or by any officers of it responsible for the default.

(5) This section does not affect the operation of any enactment making it an offence, or imposing a civil penalty, for the default.

Modifications etc. (not altering text)

C1535 Ss. 1112,1113 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 16**

C1537 Ss. 1112-1113 power to apply (with or without modifications) conferred (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8**, 47(2); S.I. 2018/1161, reg. 3(a)

C1539 S. 1113 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(1)(d)} (with transitional provisions in Sch. 1 para. 2)

C1540 S. 1113 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **69** (with reg. 60, Sch. 1 paras. 32, 34, 35)

C1541 S. 1113 applied (with modifications) by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), reg. 14, **Sch. 2 para. 4** (as substituted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), reg. 38) (as amended

(31.12.2020) by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **11**, 46 (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), 5(a)-(f)); 2020 c. 1, Sch. 5 para. 1(1))

1114 Application of provisions about documents and delivery

(1) In this Part—

(a) "document" means information recorded in any form, and

(b) references to delivering a document include forwarding, lodging, registering, sending, producing or submitting it or (in the case of a notice) giving it.

(2) Except as otherwise provided, this Part applies in relation to the supply to the registrar of information otherwise than in documentary form as it applies in relation to the delivery of a document.

Modifications etc. (not altering text)

C1542 Ss. 1114-1119 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1543 Ss. 1114-1119 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), {regs. 3-5, Sch. 1 para. 17(2)(g)} (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1544 S. 1114(1) applied (31.1.2019) by Technical and Further Education Act 2017 (c. 19), **ss. 8(6)**, 47(2); S.I. 2018/1161, reg. 3(a)

Commencement Information

I394 S. 1114 wholly in force at 1.10.2009; s. 1114 not in force at Royal Assent, see s. 1300; s. 1114 in force for specified purposes at 1.1.2007 by S.I. 2006/3428, **art. 2(2)(c)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1114 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(r)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18) (as amended by S.I. 2009/1802, art. 18)

1115 Supplementary provisions relating to electronic communications

(1) Registrar's rules may require a company **[**[F1216](or other body)**]** to give any necessary consents to the use of electronic means for communications by the registrar to the company **[**[F1216](or other body)**]** as a condition of making use of any facility to deliver material to the registrar by electronic means.

(2) A document that is required to be signed by the registrar or authenticated by the registrar's seal shall, if sent by electronic means, be authenticated in such manner as may be specified by registrar's rules.

Textual Amendments

F1216 Words in s. 1115(1) inserted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 14**

Modifications etc. (not altering text)

C1545 Ss. 1114-1119 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

C1546 Ss. 1114-1119 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), {regs. 3-5, Sch. 1 para. 17(2)(g)} (with transitional provisions and savings in regs. 7, 9, Sch. 2)

1116 Alternative to publication in the Gazette

(1) Notices that would otherwise need to be published by the registrar in the Gazette may instead be published by such means as may from time to time be approved by the registrar in accordance with regulations made by the Secretary of State.

(2) The Secretary of State may make provision by regulations as to what alternative means may be approved.

(3) The regulations may, in particular—

(a) require the use of electronic means;

(b) require the same means to be used—

(i) for all notices or for all notices of specified descriptions, and

(ii) whether **[**F1217the company (or other body) to which the notice relates**]** is registered in England and Wales, Scotland or Northern Ireland;

(c) impose conditions as to the manner in which access to the notices is to be made available.

(4) Regulations under this section are subject to negative resolution procedure.

(5) Before starting to publish notices by means approved under this section the registrar must publish at least one notice to that effect in the Gazette.

(6) Nothing in this section prevents the registrar from giving public notice both in the Gazette and by means approved under this section.

In that case, the requirement of public notice is met when notice is first given by either means.

Textual Amendments

F1217 Words in s. 1116(3)(b)(ii) substituted (1.10.2009) by The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 15**

Modifications etc. (not altering text)

C1547 Ss. 1114-1119 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

Commencement Information

I395 S. 1116 wholly in force at 1.10.2009; s. 1116 not in force at Royal Assent, see s. 1300; s. 1116 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1116 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(r)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

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1117 Registrar's rules

(1) Where any provision of this Part enables the registrar to make provision, or impose requirements, as to any matter, the registrar may make such provision or impose such requirements by means of rules under this section.

This is without prejudice to the making of such provision or the imposing of such requirements by other means.

(2) Registrar's rules—

(a) may make different provision for different cases, and

(b) may allow the registrar to disapply or modify any of the rules.

(3) The registrar must—

(a) publicise the rules in a manner appropriate to bring them to the notice of persons affected by them, and

(b) make copies of the rules available to the public (in hard copy or electronic form).

Modifications etc. (not altering text)

C1548 Ss. 1114-1119 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1549 S. 1117 applied by The European Public Limited-Liability Company Regulations 2004 (S.I. 2004/2326), reg. 14, **Sch. 2 para. 5** (as substituted (1.10.2009) by The European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400), reg. {38})

C1550 Ss. 1114-1119 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), {regs. 3-5, Sch. 1 para. 17(2)(g)} (with transitional provisions and savings in regs. 7, 9, Sch. 2)

C1551 S. 1117 modified (31.1.2019) by The Further Education Bodies (Insolvency) Regulations 2019 (S.I. 2019/138), regs. 1(1), **40** (with regs. 1(2), 3(c))

Commencement Information

I396 S. 1117 wholly in force at 1.10.2009; s. 1117 not in force at Royal Assent, see s. 1300; s. 1117 in force for specified purposes at 1.1.2007 by S.I. 2006/3428, **art. 2(2)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1117 in force for further specified purposes at 6.4.2008 in accordance with S.I. 2007/3495, **art. 3(2)**; s. 1117 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(r)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1118 Payments into the Consolidated Fund

Nothing in the Companies Acts or any other enactment as to the payment of receipts into the Consolidated Fund shall be read as affecting the operation in relation to the registrar of section 3(1) of the Government Trading Funds Act 1973 (c. 63).

Modifications etc. (not altering text)

C1552 Ss. 1114-1119 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1553 Ss. 1114-1119 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), {regs. 3-5, Sch. 1 para. 17(2)(g)} (with transitional provisions and savings in regs. 7, 9, Sch. 2)

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1119 Contracting out of registrar's functions

(1) Where by virtue of an order made under section 69 of the Deregulation and Contracting Out Act 1994 (c. 40) a person is authorised by the registrar to accept delivery of any class of documents that are under any enactment to be delivered to the registrar, the registrar may direct that documents of that class shall be delivered to a specified address of the authorised person.

Any such direction must be printed and made available to the public (with or without payment).

(2) A document of that class that is delivered to an address other than the specified address is treated as not having been delivered.

(3) Registrar's rules are not subordinate legislation for the purposes of section 71 of the Deregulation and Contracting Out Act 1994 (functions excluded from contracting out).

Modifications etc. (not altering text)

C1554 Ss. 1114-1119 applied (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **60**, 83, Sch. 1 para. 27

C1555 Ss. 1114-1119 applied (with modifications) (1.10.2009) by The Unregistered Companies Regulations 2009 (S.I. 2009/2436), {regs. 3-5, Sch. 1 para. 17(2)(g)} (with transitional provisions and savings in regs. 7, 9, Sch. 2)

1120 Application of this Part to overseas companies

F1218 . . . . . .

Textual Amendments

F1218 S. 1120 omitted (1.10.2009) by virtue of The Companies Act 2006 (Part 35) (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1802), **art. 16**

Commencement Information

I397 S. 1120 wholly in force at 1.10.2009; s. 1120 not in force at Royal Assent, see s. 1300; s. 1120 in force for specified purposes at 1.1.2007 by S.I. 2006/3428, **art. 2(2)(e)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1120 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(r)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

PART 36

OFFENCES UNDER THE COMPANIES ACTS

Modifications etc. (not altering text)

C1556 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

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Liability of officer in default

1121 Liability of officer in default

(1) This section has effect for the purposes of any provision of the Companies Acts to the effect that, in the event of contravention of an enactment in relation to a company, an offence is committed by every officer of the company who is in default.

(2) For this purpose "officer" includes—

(a) any director, manager or secretary, and

(b) any person who is to be treated as an officer of the company for the purposes of the provision in question.

(3) An officer is "in default" for the purposes of the provision if he authorises or permits, participates in, or fails to take all reasonable steps to prevent, the contravention.

Modifications etc. (not altering text)

C1557 S. 1121 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(1)(e)} (with transitional provisions in Sch. 1 para. 2)

C1558 S. 1121 applied (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), regs. 4, **7(2)**, Sch. para. 1 (with Sch. para. 11)

C1559 S. 1121 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 12(6)**

C1560 S. 1121 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 6(3)(4)**

C1561 Ss. 1121-1123 applied (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 16(4)(a)**

C1562 Ss. 1121, 1122 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 49** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)

C1563 S. 1121 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **70**

C1564 S. 1121 applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (General) Regulations 2012 (S.I. 2012/3012), regs. 1, **23(5)-(7)**

C1565 Ss. 1121, 1122 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 19(a)**

C1566 S. 1121 applied by S.I. 2008/565 reg. 13 (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 12** (with reg. 2(6)(7)))

Commencement Information

I398 S. 1121 wholly in force at 1.10.2009; s. 1121 not in force at Royal Assent, see s. 1300; s. 1121 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(2)(b)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1121 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(c)** (with art. 11(1)); s. 1121 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(l)(3)(h)** (with saving in art. 12); s. 1121 in force for further specified purposes at 6.4.2008 and 1.10. 2008 by S.I. 2007/3495, **arts. 3(3)(g)**{5(3)(a)} (with savings in arts. 7, 12); s. 1121 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(s)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

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1122 Liability of company as officer in default

(1) Where a company is an officer of another company, it does not commit an offence as an officer in default unless one of its officers is in default.

(2) Where any such offence is committed by a company the officer in question also commits the offence and is liable to be proceeded against and punished accordingly.

(3) In this section "officer" and "in default" have the meanings given by section 1121.

Modifications etc. (not altering text)

C1565 Ss. 1121, 1122 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 19(a)**

C1567 S. 1122 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(1)(e)} (with transitional provisions in Sch. 1 para. 2)

C1568 Ss. 1121-1123 applied (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 16(4)(a)**

C1569 S. 1122 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 12(6)**

C1570 S. 1122 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 6(3)(4)**

C1571 S. 1122 applied (6.4.2007) by The Companies Acts (Unregistered Companies) Regulations 2007 (S.I. 2007/318), reg. 3, **Sch.** (with reg. 6)

C1572 Ss. 1121, 1122 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 49** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)

C1573 S. 1122 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **70**

C1574 S. 1122 applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (General) Regulations 2012 (S.I. 2012/3012), regs. 1, **23(5)(6)(8)**

C1575 S. 1122 applied by S.I. 2008/565, reg. 13 (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 12** (with reg. 2(6)(7)))

Commencement Information

I399 S. 1122 wholly in force at 1.10.2009; s. 1122 not in force at Royal Assent, see s. 1300; s. 1122 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(2)(b)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1122 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(c)** (with art. 11(1)); s. 1122 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(l)(3)(h)** (with saving in art. 12); s. 1122 in force for further specified purposes at 6.4.2008 and 1.10.2008 by S.I. 2007/3495, **arts. 3(3)(g)**{5(3)(a)} (with savings in arts. 7, 12); s. 1122 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(s)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1123 Application to bodies other than companies

(1) Section 1121 (liability of officers in default) applies to a body other than a company as it applies to a company.

(2) As it applies in relation to a body corporate other than a company—

(a) the reference to a director of the company shall be read as referring—

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(i) where the body's affairs are managed by its members, to a member of the body,

(ii) in any other case, to any corresponding officer of the body, and

(b) the reference to a manager or secretary of the company shall be read as referring to any manager, secretary or similar officer of the body.

(3) As it applies in relation to a partnership—

(a) the reference to a director of the company shall be read as referring to a member of the partnership, and

(b) the reference to a manager or secretary of the company shall be read as referring to any manager, secretary or similar officer of the partnership.

(4) As it applies in relation to an unincorporated body other than a partnership—

(a) the reference to a director of the company shall be read as referring—

(i) where the body's affairs are managed by its members, to a member of the body,

(ii) in any other case, to a member of the governing body, and

(b) the reference to a manager or secretary of the company shall be read as referring to any manager, secretary or similar officer of the body.

Modifications etc. (not altering text)

C1576 Ss. 1121-1123 applied (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 16(4)(a)**

C1577 S. 1123 applied (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), regs. 4, **7(2)**, Sch. para. 1 (with Sch. para. 11)

C1578 S. 1123 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 12(6)**

C1579 S. 1123 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 6(3)(4)**

C1580 S. 1123 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(1)(e)} (with transitional provisions in Sch. 1 para. 2)

C1581 S. 1123 applied by S.I. 2008/565, reg. 13 (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 12** (with reg. 2(6)(7)))

Commencement Information

I400 S. 1123 wholly in force; s. 1123 not in force at Royal Assent see s. 1300; s. 1123 in force for specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(c)** (with art. 11(1)); s. 1123 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(l)** (with saving in art. 12); s. 1123 in force for further specified purposes at 6.4.2008 and 1.10.2008 by S.I. 2007/3495, **arts. 3(3)(g)**, **5(3)(a)** (with savings in arts. 7, 12); s. 1123 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(s)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Offences under the Companies Act 1985

1124 Amendments of the Companies Act 1985

Schedule 3 contains amendments of the Companies Act 1985 (c. 6) relating to offences.

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Commencement Information

I401 S. 1124 wholly in force at 1.10.2007; s. 1124 not in force at Royal Assent see s. 1300, s. 1124 in force at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(k)** (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1)

General provisions

1125 Meaning of "daily default fine"

(1) This section defines what is meant in the Companies Acts where it is provided that a person guilty of an offence is liable on summary conviction to a fine not exceeding a specified amount "and, for continued contravention, a daily default fine" not exceeding a specified amount.

(2) This means that the person is liable on a second or subsequent summary conviction of the offence to a fine not exceeding the latter amount for each day on which the contravention is continued (instead of being liable to a fine not exceeding the former amount).

Modifications etc. (not altering text)

C1582 Ss. 1125-1132 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 50** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)

C1583 S. 1125 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(1)(f)} (with transitional provisions in Sch. 1 para. 2)

C1584 S. 1125 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **71**

C1585 S. 1125 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 19(b)**

C1586 S. 1125 applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **70**

C1587 S. 1125 applied by S.I. 2008/565, **reg. 13** (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 12** (with reg. 2(6)(7)))

Commencement Information

I402 S. 1125 wholly in force at 1.10.2009 ; s. 1125 not in force at Royal Assent, see s. 1300; s. 1125 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(2)(b)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1125 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(c)** (with art. 11(1)); s. 1125 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(l)(3)(h)** (with saving in art. 12 and subject to transitional provisions and savings in Sch. 1); s. 1125 in force for further specified purposes at 6.4.2008 and 1.10.2008 by S.I. 2007/3495, **arts. 3(3)(g)**, **5(3)(a)** (with savings in arts. 7, 12); s. 1125 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(s)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

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1126 Consents required for certain prosecutions

(1) This section applies to proceedings for an offence under any of the following provisions—

section 458, 460 or 949 of this Act (offences of unauthorised disclosure of information);

section 953 of this Act (failure to comply with rules about takeover bid documents);

section 448, 449, 450, 451 or 453A of the Companies Act 1985 (c. 6) (offences in connection with company investigations);

section 798 of this Act or section 455 of the Companies Act 1985 (offence of attempting to evade restrictions on shares).

[F1219section 1112 of this Act (general false statement offence);

paragraph 5 or 6 of Schedule 1B to this Act (breach of certain restrictions imposed under that Schedule)**]**

(2) No such proceedings are to be brought in England and Wales except by or with the consent of—

(a) in the case of an offence under—

(i) section 458, 460 or 949 of this Act,

(ii) section 953 of this Act, F1220...

(iii) section 448, 449, 450, 451 or 453A of the Companies Act 1985, **[**F1221or

(iv) section 1112 of this Act,**]**

the Secretary of State or the Director of Public Prosecutions;

(b) in the case of an offence under section 798 of **[**F1222, or paragraph 5 or 6 of Schedule 1B to,**]** this Act or section 455 of the Companies Act 1985, the Secretary of State.

(3) No such proceedings are to be brought in Northern Ireland except by or with the consent of—

(a) in the case of an offence under—

(i) section 458, 460 or 949 of this Act,

(ii) section 953 of this Act, F1223...

(iii) section 448, 449, 450, 451 or 453A of the Companies Act 1985, **[**F1224or

(iv) section 1112 of this Act,**]**

the Secretary of State or the Director of Public Prosecutions for Northern Ireland;

(b) in the case of an offence under section 798 of **[**F1225, or paragraph 5 or 6 of Schedule 1B to,**]** this Act or section 455 of the Companies Act 1985, the Secretary of State.

Textual Amendments

F1219 Words in s. 1126(1) inserted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 3 para. 9(2)**; S.I. 2015/1329, reg. 3(a); S.I. 2015/2029, reg. 4(a)

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F1220 Word in s. 1126(2)(a)(ii) omitted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 3 para. 9(3)(a)**; S.I. 2015/1329, reg. 3(a); S.I. 2015/2029, reg. 4(a)

F1221 S. 1126(2)(a)(iv) and word inserted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 3 para. 9(3)(b)**; S.I. 2015/1329, reg. 3(a); S.I. 2015/2029, reg. 4(a)

F1222 Words in s. 1126(2)(b) inserted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 3 para. 9(4)**; S.I. 2015/1329, reg. 3(a); S.I. 2015/2029, reg. 4(a)

F1223 Word in s. 1126(3)(a)(ii) omitted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by virtue of Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 3 para. 9(5)(a)**; S.I. 2015/1329, reg. 3(a); S.I. 2015/2029, reg. 4(a)

F1224 S. 1126(3)(a)(iv) and word inserted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 3 para. 9(5)(b)**; S.I. 2015/1329, reg. 3(a); S.I. 2015/2029, reg. 4(a)

F1225 Words in s. 1126(3)(b) inserted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 3 para. 9(6)**; S.I. 2015/1329, reg. 3(a); S.I. 2015/2029, reg. 4(a)

Modifications etc. (not altering text)

C1588 Ss. 1125-1132 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 50** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)

C1589 S. 1126 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **72** (as amended (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), **Sch. 3 para. 6**)

Commencement Information

I403 S. 1126 wholly in force at 6.4.2008; s. 1126 not in force at Royal Assent, see s. 1300; s. 1126 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(2)(b)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1126 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(c)** (with art. 11(1)); s. 1126 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(l)** (with saving in art. 12); s. 1126 fully in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(n)** (with savings in arts. 7, 12)

1127 Summary proceedings: venue

(1) Summary proceedings for any offence under the Companies Acts may be taken—

(a) against a body corporate, at any place at which the body has a place of business, and

(b) against any other person, at any place at which he is for the time being.

(2) This is without prejudice to any jurisdiction exercisable apart from this section.

Modifications etc. (not altering text)

C1590 S. 1127 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(1)(g)} (with transitional provisions in Sch. 1 para. 2)

C1591 Ss. 1127, 1128 applied (15.8.2008) by The Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2008 (S.I. 2008/1950), **reg. 4**

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C1592 Ss. 1127, 1128 applied (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 16(4)(b)**

C1593 Ss. 1127, 1128 applied (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 15(5)(a)**

C1594 S. 1127 applied (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), **reg. 13(6)** (with Sch. para. 11)

C1595 Ss. 1125-1132 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 50** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)

C1596 S. 1127 applied (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), **reg. 6(7)** (with Sch. para. 11)

C1597 Ss. 1127, 1128 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 13**

C1598 Ss. 1127-1133 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **73**

C1599 S. 1127 applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (General) Regulations 2012 (S.I. 2012/3012), regs. 1, **23(5)(6)**, **60(2)(3)**

C1600 S. 1127 applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012 (S.I. 2012/3013), regs. 1, **15(1)(2)**

C1601 Ss. 1127 1128 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 19(c)**

C1602 S. 1127 applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **71**

C1603 S. 1127 applied by S.I. 2008/565, reg. 13 (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 12** (with reg. 2(6)(7)))

Commencement Information

I404 S. 1127 wholly in force at 1.10.2009; s. 1127 not in force at Royal Assent, see s. 1300; s. 1127 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(2)(b)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1127 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(c)** (with art. 11(1)); s. 1127 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(l)(3)(h)** (with saving in art. 12 and subject to transitional provisions and savings in Sch. 1); s. 1127 in force for further specified purposes at 6.4.2008 and 1.10.2008 by S.I. 2007/3495, **arts. 3(3)(g)**, **5(3)(a)** (with savings in arts. 7, 12); s. 1127 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(s)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1128 Summary proceedings: time limit for proceedings

(1) An information relating to an offence under the Companies Acts that is triable by a magistrates' court in England and Wales may be so tried if it is laid—

(a) at any time within three years after the commission of the offence, and

(b) within twelve months after the date on which evidence sufficient in the opinion of the Director of Public Prosecutions or the Secretary of State (as the case may be) to justify the proceedings comes to his knowledge.

(2) Summary proceedings in Scotland for an offence under the Companies Acts—

(a) must not be commenced after the expiration of three years from the commission of the offence;

(b) subject to that, may be commenced at any time—

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(i) within twelve months after the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to his knowledge, or

(ii) where such evidence was reported to him by the Secretary of State, within twelve months after the date on which it came to the knowledge of the latter.

Section 136(3) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (date when proceedings deemed to be commenced) applies for the purposes of this subsection as for the purposes of that section.

(3) A magistrates' court in Northern Ireland has jurisdiction to hear and determine a complaint charging the commission of a summary offence under the Companies Acts provided that the complaint is made—

(a) within three years from the time when the offence was committed, and

(b) within twelve months from the date on which evidence sufficient in the opinion of the Director of Public Prosecutions for Northern Ireland or the Secretary of State (as the case may be) to justify the proceedings comes to his knowledge.

(4) For the purposes of this section a certificate of the Director of Public Prosecutions, the Lord Advocate, the Director of Public Prosecutions for Northern Ireland or the Secretary of State (as the case may be) as to the date on which such evidence as is referred to above came to his notice is conclusive evidence.

Modifications etc. (not altering text)

C1601 Ss. 1127 1128 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 19(c)**

C1604 S. 1128 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(1)(g)} (with transitional provisions in Sch. 1 para. 2)

C1605 Ss. 1127, 1128 applied (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 16(4)(b)**

C1606 Ss. 1127, 1128 applied (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 15(5)(a)**

C1607 S. 1128 applied (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), **reg. 13(6)** (with Sch. para. 11)

C1608 Ss. 1125-1132 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 50** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)

C1609 S. 1128 applied (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), **reg. 6(7)** (with Sch. para. 11)

C1610 S. 1128 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 13**

C1611 S.s. 1127, 1128 applied (15.8.2008) by The Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2008 (S.I. 2008/1950), **reg. 4**

C1612 Ss. 1127-1133 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **73**

C1613 S. 1128 applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (General) Regulations 2012 (S.I. 2012/3012), regs. 1, **23(5)(6)**, **60(2)(3)**

C1614 S. 1128 applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012 (S.I. 2012/3013), regs. 1, **15(1)(2)**

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C1615 S. 1128 applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **72**

C1616 S. 1128 applied by S.I. 2008/565, reg. 13 (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 12** (with reg. 2(6)(7)))

Commencement Information

I405 S. 1128 wholly in force at 1.10.2009; s. 1128 not in force at Royal Assent, see s. 1300; s. 1128 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(2)(b)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1128 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(c)** (with art. 11(1)); s. 1128 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(l)(3)(h)** (with saving in art. 12 and subject to transitional provisions and savings in Sch. 1); s. 1128 in force for further specified purposes at 6.4.2008 and 1.10.2008 by S.I. 2007/3495, **arts. 3(3)(g)**, **5(3)(a)** (with savings in arts. 7, 12); s. 1128 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(s)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1129 Legal professional privilege

In proceedings against a person for an offence under the Companies Acts, nothing in those Acts is to be taken to require any person to disclose any information that he is entitled to refuse to disclose on grounds of legal professional privilege (in Scotland, confidentiality of communications).

Modifications etc. (not altering text)

C1617 S. 1129 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(1)(h)} (with transitional provisions in Sch. 1 para. 2)

C1618 Ss. 1125-1132 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 50** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)

C1619 Ss. 1127-1133 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **73**

C1620 S. 1129 applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (General) Regulations 2012 (S.I. 2012/3012), regs. 1, **23(5)(6)**, **60(2)(3)**

C1621 S. 1129 applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012 (S.I. 2012/3013), regs. 1, **15(1)(2)**

C1622 S. 1129 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 19(d)**

C1623 S. 1129 applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **73**

Commencement Information

I406 S. 1129 wholly in force at 1.10.2009; s. 1129 not in force at Royal Assent, see s. 1300; s. 1129 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(2)(b)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1129 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(c)** (with art. 11(1)); s. 1129 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(l)(3)(h)** (with saving in art. 12 and subject to transitional provisions and savings in Sch. 1); s. 1129 in force for further specified purposes at 6.4.2008 and 1.10.2008 by S.I. 2007/3495, **arts. 3(3)(g)**, **5(3)(a)** (with savings in arts. 7, 12); s. 1129 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(s)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

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1130 Proceedings against unincorporated bodies

(1) Proceedings for an offence under the Companies Acts alleged to have been committed by an unincorporated body must be brought in the name of the body (and not in that of any of its members).

(2) For the purposes of such proceedings—

(a) any rules of court relating to the service of documents have effect as if the body were a body corporate, and

(b) the following provisions apply as they apply in relation to a body corporate—

(i) in England and Wales, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43),

(ii) in Scotland, sections 70 and 143 of the Criminal Procedure (Scotland) Act 1995 (c. 46),

(iii) in Northern Ireland, section 18 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.)) and Article 166 of and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).

(3) A fine imposed on an unincorporated body on its conviction of an offence under the Companies Acts must be paid out of the funds of the body.

Modifications etc. (not altering text)

C1624 Ss. 1125-1132 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 50** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)

C1625 S. 1130 applied (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), **reg. 13(6)** (with Sch. para. 11)

C1626 S. 1130 applied (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), **reg. 6(7)** (with Sch. para. 11)

C1627 S. 1130 applied (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), regs. 4, **7(2)**, Sch. para. 1 (with Sch. para. 11)

C1628 S. 1130 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 12(6)**

C1629 S. 1130 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 6(3)(4)**

C1630 S. 1130 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(1)(i)} (with transitional provisions in Sch. 1 para. 2)

C1631 S. 1130 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 5(7)**

C1632 S. 1130 applied (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 15(5)(b)**

C1633 S. 1130 applied (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 16(4)(c)**

C1634 Ss. 1127-1133 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **73**

C1635 S. 1130 applied by S.I. 2008/565, reg. 13 (as substituted (with effect in accordance with reg. 2(4) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 2 para. 12** (with reg. 2(6)(7)))

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Commencement Information

I407 S. 1130 wholly in force at 1.10.2009; s. 1130 not in force at Royal Assent, see s. 1300; s. 1130 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(2)(b)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1130 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(c)** (with art. 11(1)); s. 1130 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(l)(3)(h)** (with saving in art. 12 and subject to transitional provisions and savings in Sch. 1); s. 1130 in force for further specified purposes at 6.4.2008 and 1.10.2008 by S.I. 2007/3495, **arts. 3(3)(g)**, **5(3)(a)** (with savings in arts. 7, 12); s. 1130 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(s)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1131 Imprisonment on summary conviction in England and Wales: transitory provision

(1) This section applies to any provision of the Companies Acts that provides that a person guilty of an offence is liable on summary conviction in England and Wales to imprisonment for a term not exceeding twelve months.

(2) In relation to an offence committed before the commencement of **[**F1226paragraph 24(2) of Schedule 22 to the Sentencing Act 2020**]**, for "twelve months" substitute "six months".

Textual Amendments

F1226 Words in s. 1131(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 443(1)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

Modifications etc. (not altering text)

C1636 Ss. 1125-1132 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 50** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)

C1637 Ss. 1127-1133 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **73**

C1638 S. 1131 applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (General) Regulations 2012 (S.I. 2012/3012), regs. 1, **60(2)(3)**

C1639 S. 1131 applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012 (S.I. 2012/3013), regs. 1, **15(1)(2)**

Commencement Information

I408 S. 1131 wholly in force at 1.10.2009; s. 1131 not in force at Royal Assent, see s. 1300; s. 1131 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(2)(b)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1131 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(c)** (with art. 11(1)); s. 1131 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(l)(3)(h)** (with saving in art. 12 and subject to transitional provisions and savings in Sch. 1); s. 1131 in force for further specified purposes at 6.4.2008 and 1.10.2008 by S.I. 2007/3495, **arts. 3(3)(g)**, **5(3)(a)** (with savings in arts. 7, 12); s. 1131 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(s)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

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Production and inspection of documents

1132 Production and inspection of documents where offence suspected

(1) An application under this section may be made—

(a) in England and Wales, to a judge of the High Court by the Director of Public Prosecutions, the Secretary of State or a chief officer of police;

(b) in Scotland, to one of the Lords Commissioners of Justiciary by the Lord Advocate;

(c) in Northern Ireland, to the High Court by the Director of Public Prosecutions for Northern Ireland, the Department of Enterprise, Trade and Investment or a chief superintendent of the Police Service of Northern Ireland.

(2) If on an application under this section there is shown to be reasonable cause to believe—

(a) that any person has, while an officer of a company, committed an offence in connection with the management of the company's affairs, and

(b) that evidence of the commission of the offence is to be found in any documents in the possession or control of the company,

an order under this section may be made.

(3) The order may—

(a) authorise any person named in it to inspect the documents in question, or any of them, for the purpose of investigating and obtaining evidence of the offence, or

(b) require the secretary of the company, or such other officer of it as may be named in the order, to produce the documents (or any of them) to a person named in the order at a place so named.

(4) This section applies also in relation to documents in the possession or control of a person carrying on the business of banking, so far as they relate to the company's affairs, as it applies to documents in the possession or control of the company, except that no such order as is referred to in subsection (3)(b) may be made by virtue of this subsection.

(5) The decision under this section of a judge of the High Court, any of the Lords Commissioners of Justiciary or the High Court is not appealable.

(6) In this section "document" includes information recorded in any form.

Modifications etc. (not altering text)

C1640 S. 1132 applied (6.4.2007) by The Companies Acts (Unregistered Companies) Regulations 2007 (S.I. 2007/318), reg. 3, **Sch.** (with reg. 6)

C1641 Ss. 1125-1132 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 50** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)

C1642 Ss. 1127-1133 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **73**

C1643 S. 1132 applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (General) Regulations 2012 (S.I. 2012/3012), regs. 1, **23(5)(6)(9)**, **60(2)-(4)**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

C1644 S. 1132 applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012 (S.I. 2012/3013), regs. 1, **15(1)-(3)**

C1645 S. 1132 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 19(e)**

C1646 S. 1132 applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **74**

Commencement Information

I409 S. 1132 wholly in force at 1.10.2009; s. 1132 not in force at Royal Assent, see s. 1300; s. 1132 in force for specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(c)** (with art. 11(1)); s. 1132 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(l)(3)(h)** (with saving in art. 12 and subject to transitional provisions and savings in Sch. 1); s. 1132 in force for further specified purposes at 6.4.2008 and 1.10.2008 by S.I. 2007/3495, **arts. 3(3)(g)**, **5(3)(a)** (with savings in arts. 7, 12); s. 1132 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(s)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Supplementary

1133 Transitional provision

The provisions of this Part except section 1132 do not apply to offences committed before the commencement of the relevant provision.

Modifications etc. (not altering text)

C1647 Ss. 1127-1133 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **73**

Commencement Information

I410 S. 1133 wholly in force at 1.10.2009; s. 1133 not in force at Royal Assent, see s. 1300; s. 1133 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(2)(b)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1133 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(c)** (with art. 11(1)); s. 1133 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(l)(3)(h)** (with saving in art. 12 and subject to transitional provisions and savings in Sch. 1); s. 1133 in force for further specified purposes at 6.4.2008 and 1.10.2008 by S.I. 2007/3495, **arts. 3(3)(g)**, **5(3)(a)** (with savings in arts. 7, 12); s. 1133 otherwise in force at 20.1.2007 by S.I. 2008/2860, **art. 3(s)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

PART 37

COMPANIES: SUPPLEMENTARY PROVISIONS

Modifications etc. (not altering text)

C1648 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Company records

1134 Meaning of "company records"

In this Part "company records" means—

(a) any register, index, accounting records, agreement, memorandum, minutes or other document required by the Companies Acts to be kept by a company, and

(b) any register kept by a company of its debenture holders.

Modifications etc. (not altering text)

C1649 S. 1134 applied (6.4.2007) by The Companies Acts (Unregistered Companies) Regulations 2007 (S.I. 2007/318), reg. 3, **Sch.** (with reg. 6)

C1650 Ss. 1134-1138 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **74** (as amended (6.4.2013) by S.I. 2013/618, reg. 7 (with reg. 8(4)) and as amended (E.W.S.) (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), **Sch. 3 reg. 7**)

Commencement Information

I411 S. 1134 wholly in force at 1.10.2009; s. 1134 not in force at Royal Assent see s. 1300; s. 1134 in force for specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(d)** (with art. 11(1)); s. 1134 in force otherwise at 1.10.2009 by S.I. 2008/2860, **art. 3(t)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1135 Form of company records

(1) Company records—

(a) may be kept in hard copy or electronic form, and

(b) may be arranged in such manner as the directors of the company think fit,

provided the information in question is adequately recorded for future reference.

(2) Where the records are kept in electronic form, they must be capable of being reproduced in hard copy form.

(3) If a company fails to comply with this section, an offence is committed by every officer of the company who is in default.

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

(5) Any provision of an instrument made by a company before 12th February 1979 that requires a register of holders of the company's debentures to be kept in hard copy form is to be read as requiring it to be kept in hard copy or electronic form.

Modifications etc. (not altering text)

C1651 S. 1135 applied (6.4.2007) by The Companies Acts (Unregistered Companies) Regulations 2007 (S.I. 2007/318), reg. 3, **Sch.** (with reg. 6)

C1652 Ss. 1134-1138 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **74** (as amended

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(6.4.2013) by S.I. 2013/618, reg. 7 (with reg. 8(4)) and as amended (E.W.S.) (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), **Sch. 3 reg. 7**)

Commencement Information

I412 S. 1135 wholly in force at 1.10.2009; s. 1135 not in force at Royal Assent see s. 1300; s. 1135 in force for specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(d)** (with art. 11(1)); s. 1135 in force otherwise at 1.10.2009 by S.I. 2008/2860, **art. 3(t)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1136 Regulations about where certain company records to be kept available for inspection

(1) The Secretary of State may make provision by regulations specifying places other than a company's registered office at which company records required to be kept available for inspection under a relevant provision may be so kept in compliance with that provision.

(2) The "relevant provisions" are—

section 114 (register of members);

[F1227section 128D (historic register of members);**]**

section 162 (register of directors);

section 228 (directors' service contracts);

section 237 (directors' indemnities);

section 275 (register of secretaries);

section 358 (records of resolutions etc);

section 702 (contracts relating to purchase of own shares);

section 720 (documents relating to redemption or purchase of own shares out of capital by private company);

section 743 (register of debenture holders);

[F1228section 790M (register of people with significant control over a company);**]**

[F1228section 790Z (historic PSC register);**]**

section 805 (report to members of outcome of investigation by public company into interests in its shares);

section 809 (register of interests in shares disclosed to public company);

[F1229section 859Q (instruments creating charges)**]**.

(3) The regulations may specify a place by reference to the company's principal place of business, the part of the United Kingdom in which the company is registered, the place at which the company keeps any other records available for inspection or in any other way.

(4) The regulations may provide that a company does not comply with a relevant provision by keeping company records available for inspection at a place specified in the regulations unless conditions specified in the regulations are met.

(5) The regulations—

(a) need not specify a place in relation to each relevant provision;

(b) may specify more than one place in relation to a relevant provision.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(6) A requirement under a relevant provision to keep company records available for inspection is not complied with by keeping them available for inspection at a place specified in the regulations unless all the company's records subject to the requirement are kept there.

(7) Regulations under this section are subject to negative resolution procedure.

Textual Amendments

F1227 Words in s. 1136(2) inserted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 5 para. 33**; S.I. 2016/321, reg. 6(c)

F1228 Words in s. 1136(2) inserted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), **Sch. 3 para. 10**; S.I. 2015/1329, reg. 3(a); S.I. 2015/2029, reg. 4(a)

F1229 Words in s. 1136(2) substituted (6.4.2013) by The Companies Act 2006 (Amendment of Part 25) Regulations 2013 (S.I. 2013/600), reg. 1, **Sch. 2 para. 3(8)** (with reg. 6)

Modifications etc. (not altering text)

C1653 Ss. 1134-1138 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **74** (as amended (6.4.2013) by S.I. 2013/618, reg. 7 (with reg. 8(4)) and as amended (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), **Sch. 3 para. 7**)

Commencement Information

I413 S. 1136 wholly in force at 1.10.2009; s. 1136 not in force at Royal Assent, see s. 1300; s. 1136 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1136 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(t)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1137 Regulations about inspection of records and provision of copies

(1) The Secretary of State may make provision by regulations as to the obligations of a company that is required by any provision of the Companies Acts—

(a) to keep available for inspection any company records, or

(b) to provide copies of any company records.

(2) A company that fails to comply with the regulations is treated as having refused inspection or, as the case may be, having failed to provide a copy.

(3) The regulations may—

(a) make provision as to the time, duration and manner of inspection, including the circumstances in which and extent to which the copying of information is permitted in the course of inspection, and

(b) define what may be required of the company as regards the nature, extent and manner of extracting or presenting any information for the purposes of inspection or the provision of copies.

(4) Where there is power to charge a fee, the regulations may make provision as to the amount of the fee and the basis of its calculation.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(5) Nothing in any provision of this Act or in the regulations shall be read as preventing a company—

(a) from affording more extensive facilities than are required by the regulations, or

(b) where a fee may be charged, from charging a lesser fee than that prescribed or none at all.

(6) Regulations under this section are subject to negative resolution procedure.

Modifications etc. (not altering text)

C1654 Ss. 1134-1138 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **74** (as amended (6.4.2013) by S.I. 2013/618, reg. 7 (with reg. 8(4)) and as amended (E.W.S.) (6.4.2016) by The Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), **Sch. 3 reg. 7**)

Commencement Information

I414 S. 1137 wholly in force at 1.10.2009; s. 1137 not in force at Royal Assent, see s. 1300; s. 1137 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1137(1)(4)(5)(b)(6) in force at 30.9.2007 by S.I. 2007/2607, **art. 2(1)**; s. 1137 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(t)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1138 Duty to take precautions against falsification

(1) Where company records are kept otherwise than in bound books, adequate precautions must be taken—

(a) to guard against falsification, and

(b) to facilitate the discovery of falsification.

(2) If a company fails to comply with this section, an offence is committed by every officer of the company who is in default.

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

(4) This section does not apply to the documents required to be kept under—

(a) section 228 (copy of director's service contract or memorandum of its terms); or

(b) section 237 (qualifying indemnity provision).

Modifications etc. (not altering text)

C1655 S. 1138 applied (6.4.2007) by The Companies Acts (Unregistered Companies) Regulations 2007 (S.I. 2007/318), reg. 3, **Sch.** (with reg. 6)

C1656 Ss. 1134-1138 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **74** (as amended (6.4.2013) by S.I. 2013/618, reg. 7 (with reg. 8(4)) and as amended (E.W.S.) (6.4.2016) by The

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Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016 (S.I. 2016/340), reg. 1(3), **Sch. 3 reg. 7**)

Commencement Information

I415 S. 1138 wholly in force at 1.10.2009; s. 1138 not in force at Royal Assent see s. 1300; s. 1138 in force for specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(d)** (with art. 11(1)); s. 1138 in force otherwise at 1.10.2009 by S.I. 2008/2860, **art. 3(t)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Service addresses

1139 Service of documents on company

(1) A document may be served on a company registered under this Act by leaving it at, or sending it by post to, the company's registered office.

(2) A document may be served on an overseas company whose particulars are registered under section 1046—

(a) by leaving it at, or sending it by post to, the registered address of any person resident in the United Kingdom who is authorised to accept service of documents on the company's behalf, or

(b) if there is no such person, or if any such person refuses service or service cannot for any other reason be effected, by leaving it at or sending by post to any place of business of the company in the United Kingdom.

(3) For the purposes of this section a person's "registered address" means any address for the time being shown as a current address in relation to that person in the part of the register available for public inspection.

(4) Where a company registered in Scotland or Northern Ireland carries on business in England and Wales, the process of any court in England and Wales may be served on the company by leaving it at, or sending it by post to, the company's principal place of business in England and Wales, addressed to the manager or other head officer in England and Wales of the company.

Where process is served on a company under this subsection, the person issuing out the process must send a copy of it by post to the company's registered office.

(5) Further provision as to service and other matters is made in the company communications provisions (see section 1143).

Modifications etc. (not altering text)

C1657 S. 1139 modified (21.2.2009) by The Banking Act 2009 (Parts 2 and 3 Consequential Amendments) Order 2009 (S.I. 2009/317), **art. 6(1)(4)**

C1658 Ss. 1139-1142 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **75**

C1659 S. 1139 applied (with modifications) (8.2.2011) by The Investment Bank Special Administration Regulations 2011 (S.I. 2011/245), reg. 27, **Sch. 6 Pt. 2 para. 5(4)**

C1660 S. 1139(1)(4) applied (6.4.2007) by The Companies Acts (Unregistered Companies) Regulations 2007 (S.I. 2007/318), reg. 3, **Sch.** (with reg. 6)

C1661 S. 1139(2) applied (E.W.) (6.4.2017) by The Insolvency (England and Wales) Rules 2016 (S.I. 2016/1024), rule 1, **Sch. 4 para. 1(4)** (with rule 3(3), Sch. 2)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I416 S. 1139 wholly in force at 1.10.2009; s. 1139 not in force at Royal Assent see s. 1300; s. 1139 in force for specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(e)** (with art. 11(1) and subject to transitional adaptations in Sch. 1 para. 5); s. 1139 in force for further specified purposes at 6.4.2008 by S.I. 2007/3495, **art. 3(3)(h)** (with savings in arts. 7, 12); s. 1139 in force otherwise at 1.10.2009 by S.I. 2008/2860, **art. 3(t)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1140 Service of documents on directors, secretaries and others

(1) A document may be served on a person to whom this section applies by leaving it at, or sending it by post to, the person's registered address.

(2) This section applies to—

(a) a director or secretary of a company;

(b) in the case of an overseas company whose particulars are registered under section 1046, a person holding any such position as may be specified for the purposes of this section by regulations under that section;

(c) a person appointed in relation to a company as—

(i) a judicial factor (in Scotland),

(ii) **[**[F1230]an interim manager**]** appointed under **[**[F1231]section 76 of the Charities Act 2011**][**[F1232]or section 33 of Charities Act (Northern Ireland) 2008**]** , or

(iii) a manager appointed under section 47 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27).

(3) This section applies whatever the purpose of the document in question.

It is not restricted to service for purposes arising out of or in connection with the appointment or position mentioned in subsection (2) or in connection with the company concerned.

(4) For the purposes of this section a person's "registered address" means any address for the time being shown as a current address in relation to that person in the part of the register available for public inspection.

(5) If notice of a change of that address is given to the registrar, a person may validly serve a document at the address previously registered until the end of the period of 14 days beginning with the date on which notice of the change is registered.

(6) Service may not be effected by virtue of this section at an address—

(a) if notice has been registered of the termination of the appointment in relation to which the address was registered and the address is not a registered address of the person concerned in relation to any other appointment;

(b) in the case of a person holding any such position as is mentioned in subsection (2)(b), if the overseas company has ceased to have any connection with the United Kingdom by virtue of which it is required to register particulars under section 1046.

(7) Further provision as to service and other matters is made in the company communications provisions (see section 1143).

(8) Nothing in this section shall be read as affecting any enactment or rule of law under which permission is required for service out of the jurisdiction.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F1230 Words in s. 1140(2)(c)(ii) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 260(7)(a)** (with art. 10)

F1231 Words in s. 1140(2) substituted (14.3.2012) by Charities Act 2011 (c. 25), ss. 354, 355, **Sch. 7 para. 115(a)** (with s. 20(2), Sch. 8)

F1232 Words in s. 1140(2)(c)(ii) inserted (N.I) (18.2.2011) by Charities Act (Northern Ireland) 2008 (c. 12) , ss. 183, 185, {Sch. 8 para. 13(3)}; S.R. 2011/11, **art. 2**, Sch.

Modifications etc. (not altering text)

C1662 S. 1140 applied (6.4.2007) by The Companies Acts (Unregistered Companies) Regulations 2007 (S.I. 2007/318), reg. 3, **Sch.** (with reg. 6)

C1663 S. 1140 modified (21.2.2009) by The Banking Act 2009 (Parts 2 and 3 Consequential Amendments) Order 2009 (S.I. 2009/317), **art. 6(1)(4)**

C1664 Ss. 1139-1142 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **75**

C1665 S. 1140 applied (with modifications) (8.2.2011) by The Investment Bank Special Administration Regulations 2011 (S.I. 2011/245), reg. 27, **Sch. 6 Pt. 2 para. 5(4)**

Commencement Information

I417 S. 1140 wholly in force at 1.10.2009; s. 1140 not in force at Royal Assent see s. 1300; s. 1140 in force for specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(f)** (with art. 11(1)); s. 1140 in force for further specified purposes at 6.4.2008 by S.I. 2007/3495, **art. 3(3)(h)** (with savings in arts. 7, 12); s. 1140 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(t)**

1141 Service addresses

(1) In the Companies Acts a "service address", in relation to a person, means an address at which documents may be effectively served on that person.

(2) The Secretary of State may by regulations specify conditions with which a service address must comply.

(3) Regulations under this section are subject to negative resolution procedure.

Modifications etc. (not altering text)

C1666 Ss. 1139-1142 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **75**

Commencement Information

I418 S. 1141 wholly in force at 1.10.2009; s. 1141 not in force at Royal Assent, see s. 1300; s. 1141in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1141 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(t)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1142 Requirement to give service address

Any obligation under the Companies Acts to give a person's address is, unless otherwise expressly provided, to give a service address for that person.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)
C1667 Ss. 1139-1142 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **75**

Sending or supplying documents or information

1143 The company communications provisions

(1) The provisions of sections 1144 to 1148 and Schedules 4 and 5 ("the company communications provisions") have effect for the purposes of any provision of the Companies Acts that authorises or requires documents or information to be sent or supplied by or to a company.

(2) The company communications provisions have effect subject to any requirements imposed, or contrary provision made, by or under any enactment.

(3) In particular, in their application in relation to documents or information to be sent or supplied to the registrar, they have effect subject to the provisions of Part 35.

(4) For the purposes of subsection (2), provision is not to be regarded as contrary to the company communications provisions by reason only of the fact that it expressly authorises a document or information to be sent or supplied in hard copy form, in electronic form or by means of a website.

Modifications etc. (not altering text)
C1668 Ss. 1143-1148 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 14(4)**

Commencement Information
I419 S. 1143 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(e)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1144 Sending or supplying documents or information

(1) Documents or information to be sent or supplied to a company must be sent or supplied in accordance with the provisions of Schedule 4.

(2) Documents or information to be sent or supplied by a company must be sent or supplied in accordance with the provisions of Schedule 5.

(3) The provisions referred to in subsection (2) apply (and those referred to in subsection (1) do not apply) in relation to documents or information that are to be sent or supplied by one company to another.

Modifications etc. (not altering text)
C1668 Ss. 1143-1148 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 14(4)**

Status: *Point in time view as at 31/12/2020.*
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Commencement Information

I420 S. 1144 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(e)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1145 Right to hard copy version

(1) Where a member of a company or a holder of a company's debentures has received a document or information from the company otherwise than in hard copy form, he is entitled to require the company to send him a version of the document or information in hard copy form.

(2) The company must send the document or information in hard copy form within 21 days of receipt of the request from the member or debenture holder.

(3) The company may not make a charge for providing the document or information in that form.

(4) If a company fails to comply with this section, an offence is committed by the company and every officer of it who is in default.

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

Modifications etc. (not altering text)

C1668 Ss. 1143-1148 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 14(4)**

Commencement Information

I421 S. 1145 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(e)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1146 Requirement of authentication

(1) This section applies in relation to the authentication of a document or information sent or supplied by a person to a company.

(2) A document or information sent or supplied in hard copy form is sufficiently authenticated if it is signed by the person sending or supplying it.

(3) A document or information sent or supplied in electronic form is sufficiently authenticated—

(a) if the identity of the sender is confirmed in a manner specified by the company, or

(b) where no such manner has been specified by the company, if the communication contains or is accompanied by a statement of the identity of the sender and the company has no reason to doubt the truth of that statement.

(4) Where a document or information is sent or supplied by one person on behalf of another, nothing in this section affects any provision of the company's articles under

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which the company may require reasonable evidence of the authority of the former to act on behalf of the latter.

Modifications etc. (not altering text)

C1668 Ss. 1143-1148 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 14(4)**

C1669 S. 1146 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **135(2)(d)** (with regs. 134, 189)

Commencement Information

I422 S. 1146 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(e)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1147 Deemed delivery of documents and information

(1) This section applies in relation to documents and information sent or supplied by a company.

(2) Where—

(a) the document or information is sent by post (whether in hard copy or electronic form) to an address in the United Kingdom, and

(b) the company is able to show that it was properly addressed, prepaid and posted,

it is deemed to have been received by the intended recipient 48 hours after it was posted.

(3) Where—

(a) the document or information is sent or supplied by electronic means, and

(b) the company is able to show that it was properly addressed,

it is deemed to have been received by the intended recipient 48 hours after it was sent.

(4) Where the document or information is sent or supplied by means of a website, it is deemed to have been received by the intended recipient—

(a) when the material was first made available on the website, or

(b) if later, when the recipient received (or is deemed to have received) notice of the fact that the material was available on the website.

(5) In calculating a period of hours for the purposes of this section, no account shall be taken of any part of a day that is not a working day.

(6) This section has effect subject to—

(a) in its application to documents or information sent or supplied by a company to its members, any contrary provision of the company's articles;

(b) in its application to documents or information sent or supplied by a company to its debentures holders, any contrary provision in the instrument constituting the debentures;

(c) in its application to documents or information sent or supplied by a company to a person otherwise than in his capacity as a member or debenture holder, any contrary provision in an agreement between the company and that person.

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Modifications etc. (not altering text)

C1668 Ss. 1143-1148 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 14(4)**

Commencement Information

I423 S. 1147 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(e)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1148 Interpretation of company communications provisions

(1) In the company communications provisions—

"address" includes a number or address used for the purposes of sending or receiving documents or information by electronic means;

"company" includes any body corporate;

"document" includes summons, notice, order or other legal process and registers.

(2) References in the company communications provisions to provisions of the Companies Acts authorising or requiring a document or information to be sent or supplied include all such provisions, whatever expression is used, and references to documents or information being sent or supplied shall be construed accordingly.

(3) References in the company communications provisions to documents or information being sent or supplied by or to a company include references to documents or information being sent or supplied by or to the directors of a company acting on behalf of the company.

Modifications etc. (not altering text)

C1668 Ss. 1143-1148 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 14(4)**

Commencement Information

I424 S. 1148 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, **art. 3(1)(e)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

Requirements as to independent valuation

1149 Application of valuation requirements

The provisions of sections 1150 to 1153 apply to the valuation and report required by—

section 93 (re-registration as public company: recent allotment of shares for non-cash consideration);

section 593 (allotment of shares of public company in consideration of non-cash asset);

section 599 (transfer of non-cash asset to public company).

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1150 Valuation by qualified independent person

(1) The valuation and report must be made by a person ("the valuer") who—

(a) is eligible for appointment as a statutory auditor (see section 1212), and

(b) meets the independence requirement in section 1151.

(2) However, where it appears to the valuer to be reasonable for the valuation of the consideration, or part of it, to be made by (or for him to accept a valuation made by) another person who—

(a) appears to him to have the requisite knowledge and experience to value the consideration or that part of it, and

(b) is not an officer or employee of—

(i) the company, or

(ii) any other body corporate that is that company's subsidiary or holding company or a subsidiary of that company's holding company,

or a partner of or employed by any such officer or employee,

he may arrange for or accept such a valuation, together with a report which will enable him to make his own report under this section.

(3) The references in subsection (2)(b) to an officer or employee do not include an auditor.

(4) Where the consideration or part of it is valued by a person other than the valuer himself, the latter's report must state that fact and shall also—

(a) state the former's name and what knowledge and experience he has to carry out the valuation, and

(b) describe so much of the consideration as was valued by the other person, and the method used to value it, and specify the date of that valuation.

1151 The independence requirement

(1) A person meets the independence requirement for the purposes of section 1150 only if—

(a) he is not—

(i) an officer or employee of the company, or

(ii) a partner or employee of such a person, or a partnership of which such a person is a partner;

(b) he is not—

(i) an officer or employee of an associated undertaking of the company, or

(ii) a partner or employee of such a person, or a partnership of which such a person is a partner; and

(c) there does not exist between—

(i) the person or an associate of his, and

(ii) the company or an associated undertaking of the company,

a connection of any such description as may be specified by regulations made by the Secretary of State.

(2) An auditor of the company is not regarded as an officer or employee of the company for this purpose.

(3) In this section—

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"associated undertaking" means—

(a) a parent undertaking or subsidiary undertaking of the company, or

(b) a subsidiary undertaking of a parent undertaking of the company; and

"associate" has the meaning given by section 1152.

(4) Regulations under this section are subject to negative resolution procedure.

Commencement Information

I425 S. 1151 wholly in force at 1.10.2009; s. 1151 not in force at Royal Assent, see s. 1300; s. 1151in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1151 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(t)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1152 Meaning of "associate"

(1) This section defines "associate" for the purposes of section 1151 (valuation: independence requirement).

(2) In relation to an individual, "associate" means—

(a) that individual's spouse or civil partner or minor child or step-child,

(b) any body corporate of which that individual is a director, and

(c) any employee or partner of that individual.

(3) In relation to a body corporate, "associate" means—

(a) any body corporate of which that body is a director,

(b) any body corporate in the same group as that body, and

(c) any employee or partner of that body or of any body corporate in the same group.

(4) In relation to a partnership that is a legal person under the law by which it is governed, "associate" means—

(a) any body corporate of which that partnership is a director,

(b) any employee of or partner in that partnership, and

(c) any person who is an associate of a partner in that partnership.

(5) In relation to a partnership that is not a legal person under the law by which it is governed, "associate" means any person who is an associate of any of the partners.

(6) In this section, in relation to a limited liability partnership, for "director" read "member".

1153 Valuer entitled to full disclosure

(1) A person carrying out a valuation or making a report with respect to any consideration proposed to be accepted or given by a company, is entitled to require from the officers of the company such information and explanation as he thinks necessary to enable him to—

(a) carry out the valuation or make the report, and

(b) provide any note required by section 596(3) or 600(3) (note required where valuation carried out by another person).

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(2) A person who knowingly or recklessly makes a statement to which this subsection applies that is misleading, false or deceptive in a material particular commits an offence.

(3) Subsection (2) applies to a statement—

(a) made (whether orally or in writing) to a person carrying out a valuation or making a report, and

(b) conveying or purporting to convey any information or explanation which that person requires, or is entitled to require, under subsection (1).

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

Notice of appointment of certain officers

1154 Duty to notify registrar of certain appointments etc

(1) Notice must be given to the registrar of the appointment in relation to a company of—

(a) a judicial factor (in Scotland),

(b) **[**F1233an interim manager**]** appointed under **[**F1234section 76 of the Charities Act 2011**]**, or

(c) a manager appointed under section 47 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27).

(2) The notice must be given—

(a) in the case of appointment of a judicial factor, by the judicial factor;

(b) in the case of appointment of **[**F1233an interim manager**]** under **[**F1234section 76 of the Charities Act 2011**][**F1235or section 33 of the Charities Act (Northern Ireland) 2008**]** , by the Charity Commission;

[F1236(bb) in the case of appointment of a receiver or manager under section 33 of the Charities Act (Northern Ireland) 2008, by the Charity Commission for Northern Ireland;**]**

(c) in the case of appointment of a manager under section 47 of the Companies (Audit, Investigations and Community Enterprise) Act 2004, by the Regulator of Community Interest Companies.

(3) The notice must specify an address at which service of documents (including legal process) may be effected on the person appointed.

Notice of a change in the address for service may be given to the registrar by the person appointed.

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(4) Where notice has been given under this section of the appointment of a person, notice must also be given to the registrar of the termination of the appointment.

This notice must be given by the person specified in subsection (2).

Textual Amendments

F1233 Words in s. 1154(1)(b)(2)(b) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 260(7)(b)** (with art. 10)

F1234 Words in s. 1154(1)(b)(2)(b) substituted (14.3.2012) by Charities Act 2011 (c. 25), ss. 354, 355, **Sch. 7 para. 115(b)** (with s. 20(2), Sch. 8)

F1235 Words in s. 1154(1)(b) inserted (N.I) (18.2.2011) by Charities Act (Northern Ireland) 2008 (c. 12) , ss. 183, 185, {Sch. 8 para. 13(4)}; S.R. 2011/11, **art. 2**, Sch.

F1236 S. 1154(2)(bb) inserted (N.I) (18.2.2011) by Charities Act (Northern Ireland) 2008 (c. 12), ss. 183, 185, **Sch. 8 para. 13(5)**; S.R. 2011/11, **art. 2**, Sch.

Modifications etc. (not altering text)

C1670 S. 1154 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **76**

1155 Offence of failure to give notice

(1) If a judicial factor fails to give notice of his appointment in accordance with section 1154 within the period of 14 days after the appointment he commits an offence.

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

Modifications etc. (not altering text)

C1671 S. 1155 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **76**

Courts and legal proceedings

1156 Meaning of "the court"

(1) Except as otherwise provided, in the Companies Acts "the court" means—

(a) in England and Wales, the High Court or **[**F1237the**]** county court;

(b) in Scotland, the Court of Session or the sheriff court;

(c) in Northern Ireland, the High Court.

(2) The provisions of the Companies Acts conferring jurisdiction on "the court" as defined above have effect subject to any enactment or rule of law relating to the allocation of jurisdiction or distribution of business between courts in any part of the United Kingdom.

F1238(3) . . . . . .

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F1238(4) . . . . . .

Textual Amendments

F1237 Word in s. 1156(1) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 43(a)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F1238 S. 1156(3)(4) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 43(b)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Modifications etc. (not altering text)

C1672 S. 1156 applied (with modifications) (9.7.2009 for certain purposes otherwise 1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2(2), **77**

C1673 S. 1156 applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **75**

Commencement Information

I426 S. 1156 wholly in force at 1.10.2009; s. 1156 not in force at Royal Assent, see s. 1300; s. 1156 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1156 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(t)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1157 Power of court to grant relief in certain cases

(1) If in proceedings for negligence, default, breach of duty or breach of trust against—

(a) an officer of a company, or

(b) a person employed by a company as auditor (whether he is or is not an officer of the company),

it appears to the court hearing the case that the officer or person is or may be liable but that he acted honestly and reasonably, and that having regard to all the circumstances of the case (including those connected with his appointment) he ought fairly to be excused, the court may relieve him, either wholly or in part, from his liability on such terms as it thinks fit.

(2) If any such officer or person has reason to apprehend that a claim will or might be made against him in respect of negligence, default, breach of duty or breach of trust—

(a) he may apply to the court for relief, and

(b) the court has the same power to relieve him as it would have had if it had been a court before which proceedings against him for negligence, default, breach of duty or breach of trust had been brought.

(3) Where a case to which subsection (1) applies is being tried by a judge with a jury, the judge, after hearing the evidence, may, if he is satisfied that the defendant (in Scotland, the defender) ought in pursuance of that subsection to be relieved either in whole or in part from the liability sought to be enforced against him, withdraw the case from the jury and forthwith direct judgment to be entered for the defendant (in Scotland, grant decree of absolvitor) on such terms as to costs (in Scotland, expenses) or otherwise as the judge may think proper.

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Modifications etc. (not altering text)

C1674 S. 1157 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 51** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**

C1675 S. 1157 applied (with modifications) (9.7.2009 for certain purposes otherwise 1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2(2), **77**

C1676 S. 1157 applied (E.W.) (14.3.2012) by Charities Act 2011 (c. 25), **ss. 192(1)**, 355 (with s. 20(2), Sch. 8)

C1677 S. 1157 modified (1.1.2016) by Charities Act (Northern Ireland) 2008 (c. 12), **ss. 92(1)**, 185(1); S.R. 2015/383, art. 2(3), Sch.

C1678 S. 1157 applied (with modifications) (26.6.2017) by The Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694), regs. 1(1), **76**

PART 38

COMPANIES: INTERPRETATION

Modifications etc. (not altering text)

C1679 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

Meaning of "UK-registered company"

1158 Meaning of "UK-registered company"

In the Companies Acts"UK-registered company" means a company registered under this Act. The expression does not include an overseas company that has registered particulars under section 1046.

Commencement Information

I427 S. 1158 wholly in force at 1.10.2009; s. 1158 not in force at Royal Assent see s. 1300; s. 1158 in force for certain purposes at 1.10.2007 and 1.11.2007 by S.I. 2007/2194, arts. {2(3)(i)}, {3(2)(b)} (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1); s. 1158 in force otherwise at 1.10.2009 by S.I. 2008/2860, **art. 3(t)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Meaning of "subsidiary" and related expressions

1159 Meaning of "subsidiary" etc

(1) A company is a "subsidiary" of another company, its "holding company", if that other company—

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(a) holds a majority of the voting rights in it, or

(b) is a member of it and has the right to appoint or remove a majority of its board of directors, or

(c) is a member of it and controls alone, pursuant to an agreement with other members, a majority of the voting rights in it,

or if it is a subsidiary of a company that is itself a subsidiary of that other company.

(2) A company is a "wholly-owned subsidiary" of another company if it has no members except that other and that other's wholly-owned subsidiaries or persons acting on behalf of that other or its wholly-owned subsidiaries.

(3) Schedule 6 contains provisions explaining expressions used in this section and otherwise supplementing this section.

(4) In this section and that Schedule "company" includes any body corporate.

Modifications etc. (not altering text)

C1680 S. 1159 applied by Enterprise Act 2002 (c. 40), s. 79(9) (as amended (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 199(2)(a)** (with art. 10))

Commencement Information

I428 S. 1159 wholly in force at 1.10.2009; s. 1159 not in force at Royal Assent see s. 1300; s. 1159 in force for certain purposes at 6.4.2008 by S.I. 2007/3495, **art. 3(4)** (with savings in arts. 7, 12); s. 1159 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(u)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1160 Meaning of "subsidiary" etc: power to amend

(1) The Secretary of State may by regulations amend the provisions of section 1159 (meaning of "subsidiary" etc) and Schedule 6 (meaning of "subsidiary" etc: supplementary provisions) so as to alter the meaning of the expressions "subsidiary", "holding company" or "wholly-owned subsidiary".

(2) Regulations under this section are subject to negative resolution procedure.

(3) Any amendment made by regulations under this section does not apply for the purposes of enactments outside the Companies Acts unless the regulations so provide.

(4) So much of section 23(3) of the Interpretation Act 1978 (c. 30) as applies section 17(2)(a) of that Act (effect of repeal and re-enactment) to deeds, instruments and documents other than enactments does not apply in relation to any repeal and re-enactment effected by regulations under this section.

Commencement Information

I429 S. 1160 wholly in force at 1.10.2009; s. 1160 not in force at Royal Assent, see s. 1300; s. 1160 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1160 in force for certain purposes at 6.4.2008 by S.I. 2007/3495, **art. 3(4)** (with savings in arts. 7, 12); s. 1160 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(u)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

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Meaning of "undertaking" and related expressions

1161 Meaning of "undertaking" and related expressions

(1) In the Companies Acts"undertaking" means—

(a) a body corporate or partnership, or

(b) an unincorporated association carrying on a trade or business, with or without a view to profit.

(2) In the Companies Acts references to shares—

(a) in relation to an undertaking with capital but no share capital, are to rights to share in the capital of the undertaking; and

(b) in relation to an undertaking without capital, are to interests—

(i) conferring any right to share in the profits or liability to contribute to the losses of the undertaking, or

(ii) giving rise to an obligation to contribute to the debts or expenses of the undertaking in the event of a winding up.

(3) Other expressions appropriate to companies shall be construed, in relation to an undertaking which is not a company, as references to the corresponding persons, officers, documents or organs, as the case may be, appropriate to undertakings of that description.

This is subject to provision in any specific context providing for the translation of such expressions.

(4) References in the Companies Acts to "fellow subsidiary undertakings" are to undertakings which are subsidiary undertakings of the same parent undertaking but are not parent undertakings or subsidiary undertakings of each other.

(5) In the Companies Acts "group undertaking", in relation to an undertaking, means an undertaking which is—

(a) a parent undertaking or subsidiary undertaking of that undertaking, or

(b) a subsidiary undertaking of any parent undertaking of that undertaking.

Modifications etc. (not altering text)

C1681 Ss. 1161, 1162 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 52**

C1682 S. 1161(1)(b) applied (with modifications) by 2016 anaw 6, s. 90(4) (as amended (E.W.) (25.1.2018) by Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1), s. 81(2)(3), **Sch. 23 para. 35(b)**; S.I. 2018/34, art. 2(b)(i))

1162 Parent and subsidiary undertakings

(1) This section (together with Schedule 7) defines "parent undertaking" and "subsidiary undertaking" for the purposes of the Companies Acts.

(2) An undertaking is a parent undertaking in relation to another undertaking, a subsidiary undertaking, if—

(a) it holds a majority of the voting rights in the undertaking, or

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(b) it is a member of the undertaking and has the right to appoint or remove a majority of its board of directors, or

(c) it has the right to exercise a dominant influence over the undertaking—

(i) by virtue of provisions contained in the undertaking's articles, or

(ii) by virtue of a control contract, or

(d) it is a member of the undertaking and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in the undertaking.

(3) For the purposes of subsection (2) an undertaking shall be treated as a member of another undertaking—

(a) if any of its subsidiary undertakings is a member of that undertaking, or

(b) if any shares in that other undertaking are held by a person acting on behalf of the undertaking or any of its subsidiary undertakings.

(4) An undertaking is also a parent undertaking in relation to another undertaking, a subsidiary undertaking, if—

(a) it has the power to exercise, or actually exercises, dominant influence or control over it, or

(b) it and the subsidiary undertaking are managed on a unified basis.

(5) A parent undertaking shall be treated as the parent undertaking of undertakings in relation to which any of its subsidiary undertakings are, or are to be treated as, parent undertakings; and references to its subsidiary undertakings shall be construed accordingly.

(6) Schedule 7 contains provisions explaining expressions used in this section and otherwise supplementing this section.

(7) In this section and that Schedule references to shares, in relation to an undertaking, are to allotted shares.

Modifications etc. (not altering text)

C1683 Ss. 1161, 1162 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 52**

C1684 S. 1162 modified (14.3.2012) by Charities Act 2011 (c. 25), **ss. 55(3)**, 58, 355 (with ss. 20(2), 59, Sch. 8)

Other definitions

1163 "Non-cash asset"

(1) In the Companies Acts "non-cash asset" means any property or interest in property, other than cash.

For this purpose "cash" includes foreign currency.

(2) A reference to the transfer or acquisition of a non-cash asset includes—

(a) the creation or extinction of an estate or interest in, or a right over, any property, and

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(b) the discharge of a liability of any person, other than a liability for a liquidated sum.

1164 Meaning of "banking company" and "banking group"

(1) This section defines "banking company" and "banking group" for the purposes of the Companies Acts.

(2) "Banking company" means a person who has permission under **[**F1239Part 4A**]** of the Financial Services and Markets Act 2000 (c. 8) to accept deposits, other than—

(a) a person who is not a company, and

(b) a person who has such permission only for the purpose of carrying on another regulated activity in accordance with permission under that Part.

(3) The definition in subsection (2) must be read with section 22 of that Act, any relevant order under that section and Schedule 2 to that Act.

(4) References to a banking group are to a group where the parent company is a banking company or where—

(a) the parent company's principal subsidiary undertakings are wholly or mainly credit institutions, and

(b) the parent company does not itself carry on any material business apart from the acquisition, management and disposal of interests in subsidiary undertakings.

"Group" here means a parent undertaking and its subsidiary undertakings.

(5) For the purposes of subsection (4)—

(a) a parent company's principal subsidiary undertakings are the subsidiary undertakings of the company whose results or financial position would principally affect the figures shown in the group accounts, and

(b) the management of interests in subsidiary undertakings includes the provision of services to such undertakings.

Textual Amendments

F1239 Words in s. 1164(2) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 121** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

1165 Meaning of "insurance company" and related expressions

(1) This section defines "insurance company", "authorised insurance company", "insurance group" and "insurance market activity" for the purposes of the Companies Acts.

(2) An "authorised insurance company" means a person (whether incorporated or not) who has permission under **[**F1240Part 4A**]** of the Financial Services and Markets Act 2000 (c. 8) to effect or carry out contracts of insurance.

(3) An "insurance company" means—

(a) an authorised insurance company, or

(b) any other person (whether incorporated or not) who—

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(i) carries on insurance market activity, or

(ii) may effect or carry out contracts of insurance under which the benefits provided by that person are exclusively or primarily benefits in kind in the event of accident to or breakdown of a vehicle.

(4) Neither expression includes a friendly society within the meaning of the Friendly Societies Act 1992 (c. 40).

(5) References to an insurance group are to a group where the parent company is an insurance company or where—

(a) the parent company's principal subsidiary undertakings are wholly or mainly insurance companies, and

(b) the parent company does not itself carry on any material business apart from the acquisition, management and disposal of interests in subsidiary undertakings.

"Group" here means a parent undertaking and its subsidiary undertakings.

(6) For the purposes of subsection (5)—

(a) a parent company's principal subsidiary undertakings are the subsidiary undertakings of the company whose results or financial position would principally affect the figures shown in the group accounts, and

(b) the management of interests in subsidiary undertakings includes the provision of services to such undertakings.

(7) "Insurance market activity" has the meaning given in section 316(3) of the Financial Services and Markets Act 2000.

(8) References in this section to contracts of insurance and to the effecting or carrying out of such contracts must be read with section 22 of that Act, any relevant order under that section and Schedule 2 to that Act.

Textual Amendments

F1240 Words in s. 1165(2) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 122** (with Sch. 20); S.I. 2013/423, art. 3, **Sch.**

1166 "Employees' share scheme"

For the purposes of the Companies Acts an employees' share scheme is a scheme for encouraging or facilitating the holding of shares in or debentures of a company by or for the benefit of—

(a) the bona fide employees or former employees of—

(i) the company,

(ii) any subsidiary of the company, or

(iii) the company's holding company or any subsidiary of the company's holding company, or

(b) the spouses, civil partners, surviving spouses, surviving civil partners, or minor children or step-children of such employees or former employees.

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1167 Meaning of "prescribed"

In the Companies Acts "prescribed" means prescribed (by order or by regulations) by the Secretary of State.

Commencement Information

I430 S. 1167 wholly in force at 30.9.2007; s. 1167 not in force at Royal Assent, see s. 1300; s. 1167 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1167 in force at 30.9.2007 by S.I. 2007/2607, **art. 2(2)**

1168 Hard copy and electronic form and related expressions

(1) The following provisions apply for the purposes of the Companies Acts.

(2) A document or information is sent or supplied in hard copy form if it is sent or supplied in a paper copy or similar form capable of being read.

References to hard copy have a corresponding meaning.

(3) A document or information is sent or supplied in electronic form if it is sent or supplied—

(a) by electronic means (for example, by e-mail or fax), or

(b) by any other means while in an electronic form (for example, sending a disk by post).

References to electronic copy have a corresponding meaning.

(4) A document or information is sent or supplied by electronic means if it is—

(a) sent initially and received at its destination by means of electronic equipment for the processing (which expression includes digital compression) or storage of data, and

(b) entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means.

References to electronic means have a corresponding meaning.

(5) A document or information authorised or required to be sent or supplied in electronic form must be sent or supplied in a form, and by a means, that the sender or supplier reasonably considers will enable the recipient—

(a) to read it, and

(b) to retain a copy of it.

(6) For the purposes of this section, a document or information can be read only if—

(a) it can be read with the naked eye, or

(b) to the extent that it consists of images (for example photographs, pictures, maps, plans or drawings), it can be seen with the naked eye.

(7) The provisions of this section apply whether the provision of the Companies Acts in question uses the words "sent" or "supplied" or uses other words (such as "deliver", "provide", "produce" or, in the case of a notice, "give") to refer to the sending or supplying of a document or information.

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Commencement Information

I431 S. 1168 wholly in force at 1.10.2009; s. 1168 not in force at Royal Assent, see s. 1300; s. 1168 in force for specified purposes at 1.1.2007 and 20.1.2007 by S.I. 2006/3428, {arts. 2(2)(f), 3(2)(c)} (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1168 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(g)** (with art. 11(1)); s. 1168 in force for specified purposes at 1.10.2007 and 15.12.2007 by S.I. 2007/2194, **arts. 2(3)(j)**, **4(2)(a)** (with saving in art. 12); s. 1168 in force for further specified purposes at 6.4.2008 and 1.10.2008 by S.I. 2007/3495, **arts. 3(3)(i)**, **5(3)(b)** (with savings in arts. 7, 12); s. 1168 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(u)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1169 Dormant companies

(1) For the purposes of the Companies Acts a company is "dormant" during any period in which it has no significant accounting transaction.

(2) A "significant accounting transaction" means a transaction that is required by section 386 to be entered in the company's accounting records.

(3) In determining whether or when a company is dormant, there shall be disregarded—

(a) any 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 connection with the formation of the company;

(b) any transaction consisting of the payment of—

(i) a fee to the registrar on a change of the company's name,

(ii) a fee to the registrar on the re-registration of the company,

(iii) a penalty under section 453 (penalty for failure to file accounts), or

(iv) a fee to the registrar for the registration of **[**F1241a confirmation statement**]**.

(4) Any reference in the Companies Acts to a body corporate other than a company being dormant has a corresponding meaning.

Textual Amendments

F1241 Words in s. 1169(3)(b)(iv) substituted (30.6.2016) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 93(6)**, 164(1); S.I. 2016/321, reg. 6(b)

Modifications etc. (not altering text)

C1685 S. 1169 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 53**

C1686 S. 1169 applied by 2004 c. 12, s. 279(1E) (as inserted (15.3.2018 for specified purposes, 6.4.2018 in so far as not already in force) by Finance Act 2018 (c. 3), **Sch. 3 paras. 1(6)**, 2(1)(c)(2)(c)(3))

1170 Meaning of "EEA State" and related expressions

In the Companies Acts—

[F1242 " EEA State " has the meaning given by Schedule 1 to the Interpretation Act 1978;

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" EEA company" and " EEA undertaking" mean a company or undertaking governed by the law of an EEA State. **]**

Textual Amendments

F1242 S. 1170: definition substituted (9.3.2007) by The Companies (EEA State) Regulations 2007 (S.I. 2007/732), **reg. 3**

[F1243 1170A Receiver or manager and certain related references

(1) Any reference in the Companies Acts to a receiver or manager of the property of a company, or to a receiver of it, includes a receiver or manager or (as the case may be) a receiver of part only of that property and a receiver only of the income arising from the property or from part of it.

(2) Any reference in the Companies Acts to the appointment of a receiver or manager under powers contained in an instrument includes an appointment made under powers that by virtue of an enactment are implied in and have effect as if contained in an instrument.

Textual Amendments

F1243 Ss. 1170A, 1170B inserted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 260(8)** (with art. 10)

1170B Meaning of "contributory"

(1) In the Companies Acts " contributory " means every person liable to contribute to the assets of a company in the event of its being wound up.

(2) For the purposes of all proceedings for determining, and all proceedings prior to the final determination of, the persons who are to be deemed contributories, the expression includes any person alleged to be a contributory.

(3) The reference in subsection (1) to persons liable to contribute to the assets does not include a person so liable by virtue of a declaration by the court under—

(a) section 213 of the Insolvency Act 1986 or Article 177 of the Insolvency (Northern Ireland) Order 1989 (fraudulent trading), or

(b) section 214 of that Act or Article 178 of that Order (wrongful trading).**]**

Textual Amendments

F1243 Ss. 1170A, 1170B inserted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 260(8)** (with art. 10)

1171 The former Companies Acts

In the Companies Acts—

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"the former Companies Acts" means—

(a) the Joint Stock Companies Acts, the Companies Act 1862 (c. 89), the Companies (Consolidation) Act 1908 (c. 69), the Companies Act 1929 (c. 23), the Companies Act (Northern Ireland) 1932 (c. 7 (N.I.)), the Companies Acts 1948 to 1983, the Companies Act (Northern Ireland) 1960 (c. 22 (N.I.)), the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)) and the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (S.I. 1986/1035 (N.I. 9)), and

(b) the provisions of the Companies Act 1985 (c. 6) and the Companies Consolidation (Consequential Provisions) Act 1985 (c. 9) that are no longer in force;

"the Joint Stock Companies Acts" means the Joint Stock Companies Act 1856 (c. 47), the Joint Stock Companies Acts 1856, 1857 (20 & 21 Vict. c. 14), the Joint Stock Banking Companies Act 1857 (c. 49), and the Act to enable Joint Stock Banking Companies to be formed on the principle of limited liability (1858 c. 91), but does not include the Joint Stock Companies Act 1844 (c. 110).

General

1172 References to requirements of this Act

References in the company law provisions of this Act to the requirements of this Act include the requirements of regulations and orders made under it.

Modifications etc. (not altering text)

C1687 S. 1172 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 54** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)

C1688 S. 1172 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **78**

1173 Minor definitions: general

(1) In the Companies Acts—

[[F1244]"the Audit Regulation" means Regulation 537/2014 of the European Parliament and of the Council on specific requirements regarding statutory audit of public interest entities;**]**

"body corporate" and "corporation" include a body incorporated outside the United Kingdom, but do not include—

(a) a corporation sole, or

(b) a partnership that, whether or not a legal person, is not regarded as a body corporate under the law by which it is governed;

[[F1244]"the competent authority" means the Financial Reporting Council Limited;**]**

[[F1245] "credit institution" means a credit institution as defined in Article 4(1)(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council.**]**

[[F1246]"the data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);**]**

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[F1247“EU regulated market” has the meaning given in Article 2.1.13B of Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 and amending Regulation (EU) No. 648/2012;**]**

“financial institution” means a financial institution within the meaning of Article 1.1 of the Council Directive on the obligations of branches established in a Member State of credit and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents (the Bank Branches Directive, 89/117/EEC);

“firm” means any entity, whether or not a legal person, that is not an individual and includes a body corporate, a corporation sole and a partnership or other unincorporated association;

“the Gazette” means—

(a) as respects companies registered in England and Wales, the London Gazette,

(b) as respects companies registered in Scotland, the Edinburgh Gazette, and

(c) as respects companies registered in Northern Ireland, the Belfast Gazette;

“hire-purchase agreement” has the same meaning as in the Consumer Credit Act 1974 (c. 39);

“officer”, in relation to a body corporate, includes a director, manager or secretary;

“parent company” means a company that is a parent undertaking (see section 1162 and Schedule 7);

“regulated activity” has the meaning given in section 22 of the Financial Services and Markets Act 2000 (c. 8);

[F1248“regulated market” has the meaning given in Article 2.1.13 of Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 and amending Regulation (EU) No. 648/2012;**]** ;

[F1249“transferable securities” has the meaning given by Article 2.1.24 of Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 and amending Regulation (EU) No. 648/2012;**]**

[F1250“UK regulated market” has the meaning given in Article 2.1.13A of Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 and amending Regulation (EU) No. 648/2012;**]**

“working day”, in relation to a company, means a day that is not a Saturday or Sunday, Christmas Day, Good Friday or any day that is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in the part of the United Kingdom where the company is registered.

F1251(2) . . . . . .

Textual Amendments

F1244 Words in s. 1173(1) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 27(2)**

F1245 Words in s. 1173(1) substituted (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), reg. 1(2), **Sch. 2 para. 42(2)**

F1246 Words in s. 1173(1) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 124** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

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F1247 Words in s. 1173(1) inserted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day in so far as the new definitions apply to enactments which operate by reference to financial years) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 18(a)(i)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F1248 Words in s. 1173(1) substituted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day in so far as the new definitions apply to enactments which operate by reference to financial years) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 18(a)(ii)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F1249 Words in s. 1173(1) substituted (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 1 para. 26**; 2020 c. 1, Sch. 5 para. 1(1)

F1250 Words in s. 1173(1) inserted (31.12.2020 with effect in relation to financial years beginning on or after IP completion day in so far as the new definitions apply to enactments which operate by reference to financial years) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 2 para. 18(a)(iii)** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1)

F1251 S. 1173(2) omitted (31.12.2020) by virtue of The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), reg. 1(2)(c), **Sch. 2 para. 18(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C1689 S. 1173 applied (6.4.2007) by The Companies Acts (Unregistered Companies) Regulations 2007 (S.I. 2007/308), reg. 3, **Sch.** (with reg. 6)

C1690 S. 1173 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **79**

C1691 S. 1173 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 55** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)(5)**, as amended (with effect in accordance with reg. 2(2)-(5) of the amending S.I.) by The Limited Liability Partnerships, Partnerships and Groups (Accounts and Audit) Regulations 2016 (S.I. 2016/575), regs. 2(1), **25**, as amended (1.1.2018) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 3 para. 20** (with reg. 2(6)(7)), as amended (31.12.2020) by The Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/348), reg. 2, **Sch. 3 para. 19**; 2020 c. 1, Sch. 5 para. 1(1) and as amended (31.12.2020 with effect in relation to financial years beginning on or after IP completion day) by The Accounts and Reports (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/145), regs. 1(2)(b), 2, **Sch. 3 para. 21** (with reg. 7(2)) (as amended by S.I. 2020/523, regs. 1(2), 10, 11); 2020 c. 1, Sch. 5 para. 1(1))

Commencement Information

I432 S. 1173 wholly in force at 1.10.2009; s. 1173 not in force at Royal Assent, see s. 1300; s. 1173 in force for specified purposes at 1.1.2007 and 20.1.2007 by S.I. 2006/3428, **arts. 2(2)(g)**, **3(2)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1173 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(h)** (with art. 11(1)); s. 1173 in force for further specified purposes at 1.10.2007 and 1.11.2007 by S.I. 2007/2194, **arts. 2(3)(k)**, **3(2)(c)** (with saving in art. 12); s. 1173 in force for further specified purposes at 6.4.2008 and 1.10.2008 by S.I. 2007/3495, **arts. 3(3)(j)**, **5(3)(c)** (with savings in arts. 7, 12); s. 1173 in force at 1.10.2009 in so far as not already in force by S.I. 2008/2860, **art. 3(u)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

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1174 Index of defined expressions

Schedule 8 contains an index of provisions defining or otherwise explaining expressions used in the Companies Acts.

PART 39

COMPANIES: MINOR AMENDMENTS

Modifications etc. (not altering text)

C1692 Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

F1252 1175 Removal of special provisions about accounts and audit of charitable companies

. . . . . .

Textual Amendments

F1252 S. 1175 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(r), **Sch. 23 para. 1**

1176 Power of Secretary of State to bring civil proceedings on company's behalf

(1) Section 438 of the Companies Act 1985 (power of Secretary of State to bring civil proceedings on company's behalf) shall cease to have effect.

(2) In section 439 of that Act (expenses of investigating company's affairs)—

(a) in subsection (2) omit ", or is ordered to pay the whole or any part of the costs of proceedings brought under section 438,";

(b) omit subsections (3) and (7) (which relate to section 438);

(c) in subsection (8)—

(i) for "subsections (2) and (3)" substitute " subsection (2) ", and

(ii) omit "; and any such liability imposed by subsection (2) is (subject as mentioned above) a liability also to indemnify all persons against liability under subsection (3)".

(3) In section 453(1A) of that Act (investigation of overseas companies: provisions not applicable), omit paragraph (b) (which relates to section 438).

(4) Nothing in this section affects proceedings brought under section 438 before the commencement of this section.

Commencement Information

I433 S. 1176 wholly in force at 6.4.2007, see s. 1300 and S.I. 2006/3428, **art. 4(1)(b)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

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1177 Repeal of certain provisions about company directors

The following provisions of Part 10 of the Companies Act 1985 shall cease to have effect—

section 311 (prohibition on tax-free payments to directors);

sections 323 and 327 (prohibition on directors dealing in share options);

sections 324 to 326 and 328 to 329, and Parts 2 to 4 of Schedule 13 (register of directors' interests);

sections 343 and 344 (special procedure for disclosure by banks).

Commencement Information

I434 S. 1177 wholly in force at 6.4.2007, see s. 1300 and S.I. 2006/3428, **art. 4(1)(c)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1178 Repeal of requirement that certain companies publish periodical statement

The following provisions shall cease to have effect—

section 720 of the Companies Act 1985 (c. 6) (certain companies to publish periodical statement), and

Schedule 23 to that Act (form of statement under section 720).

Commencement Information

I435 S. 1178 wholly in force at 6.4.2007, see s. 1300 and S.I. 2006/3428, **art. 4(1)(d)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1179 Repeal of requirement that Secretary of State prepare annual report

Section 729 of the Companies Act 1985 (annual report to Parliament by Secretary of State on matters within the Companies Acts) shall cease to have effect.

Commencement Information

I436 S. 1179 wholly in force at 6.4.2007, see s. 1300 and S.I. 2006/3428, **art. 4(1)(e)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1180 Repeal of certain provisions about company charges

Part 4 of the Companies Act 1989 (c. 40) (registration of company charges), which has not been brought into force, is repealed.

1181 Access to constitutional documents of RTE and RTM companies

(1) The Secretary of State may by order—

(a) amend Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) for the purpose of facilitating access to the provisions of the articles or any other constitutional document of RTE companies;

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(b) amend Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002 (c. 15) (leasehold reform) for the purpose of facilitating access to the provisions of the articles or any other constitutional document of RTM companies.

(2) References in subsection (1) to provisions of a company's articles or any other constitutional document include any provisions included in those documents by virtue of any enactment.

(3) An order under this section is subject to negative resolution procedure.

(4) In this section—

"RTE companies" has the same meaning as in Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993;

"RTM companies" has the same meaning as in Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002.

Commencement Information

I437 S. 1181 wholly in force at 1.10.2009; s. 1181 not in force at Royal Assent, see s. 1300; s. 1181 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1181 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(v)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

PART 40

COMPANY DIRECTORS: FOREIGN DISQUALIFICATION ETC

Introductory

1182 Persons subject to foreign restrictions

(1) This section defines what is meant by references in this Part to a person being subject to foreign restrictions.

(2) A person is subject to foreign restrictions if under the law of a country or territory outside the United Kingdom—

(a) he is, by reason of misconduct or unfitness, disqualified to any extent from acting in connection with the affairs of a company,

(b) he is, by reason of misconduct or unfitness, required—

(i) to obtain permission from a court or other authority, or

(ii) to meet any other condition,

before acting in connection with the affairs of a company, or

(c) he has, by reason of misconduct or unfitness, given undertakings to a court or other authority of a country or territory outside the United Kingdom—

(i) not to act in connection with the affairs of a company, or

(ii) restricting the extent to which, or the way in which, he may do so.

(3) The references in subsection (2) to acting in connection with the affairs of a company are to doing any of the following—

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(a) being a director of a company,
(b) acting as receiver of a company's property, or
(c) being concerned or taking part in the promotion, formation or management of a company.

(4) In this section—

(a) "company" means a company incorporated or formed under the law of the country or territory in question, and

(b) in relation to such a company—

"director" means the holder of an office corresponding to that of director of a UK company; and

"receiver" includes any corresponding officer under the law of that country or territory.

1183 Meaning of "the court" and "UK company"

In this Part—

"the court" means—

(a) in England and Wales, the High Court or **[**F1253the county court**]**;

(b) in Scotland, the Court of Session or the sheriff court;

(c) in Northern Ireland, the High Court;

"UK company" means a company registered under this Act.

Textual Amendments

F1253 Words in s. 1183 substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Power to disqualify

1184 Disqualification of persons subject to foreign restrictions

(1) The Secretary of State may make provision by regulations disqualifying a person subject to foreign restrictions from—

(a) being a director of a UK company,
(b) acting as receiver of a UK company's property, or
(c) in any way, whether directly or indirectly, being concerned or taking part in the promotion, formation or management of a UK company.

(2) The regulations may provide that a person subject to foreign restrictions—

(a) is disqualified automatically by virtue of the regulations, or
(b) may be disqualified by order of the court on the application of the Secretary of State.

(3) The regulations may provide that the Secretary of State may accept an undertaking (a "disqualification undertaking") from a person subject to foreign restrictions that he will not do anything which would be in breach of a disqualification under subsection (1).

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(4) In this Part—

(a) a "person disqualified under this Part" is a person—

(i) disqualified as mentioned in subsection (2)(a) or (b), or

(ii) who has given and is subject to a disqualification undertaking;

(b) references to a breach of a disqualification include a breach of a disqualification undertaking.

(5) The regulations may provide for applications to the court by persons disqualified under this Part for permission to act in a way which would otherwise be in breach of the disqualification.

(6) The regulations must provide that a person ceases to be disqualified under this Part on his ceasing to be subject to foreign restrictions.

(7) Regulations under this section are subject to affirmative resolution procedure.

Commencement Information

I438 S. 1184 wholly in force at 1.10.2009; s. 1184 not in force at Royal Assent, see s. 1300; s. 1184 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1184 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(w)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1185 Disqualification regulations: supplementary

(1) Regulations under section 1184 may make different provision for different cases and may in particular distinguish between cases by reference to—

(a) the conduct on the basis of which the person became subject to foreign restrictions;

(b) the nature of the foreign restrictions;

(c) the country or territory under whose law the foreign restrictions were imposed.

(2) Regulations under section 1184(2)(b) or (5) (provision for applications to the court)—

(a) must specify the grounds on which an application may be made;

(b) may specify factors to which the court shall have regard in determining an application.

(3) The regulations may, in particular, require the court to have regard to the following factors—

(a) whether the conduct on the basis of which the person became subject to foreign restrictions would, if done in relation to a UK company, have led a court to make a disqualification order on an application under the Company Directors Disqualification Act 1986 (c. 46) or the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4));

(b) in a case in which the conduct on the basis of which the person became subject to foreign restrictions would not be unlawful if done in relation to a UK company, the fact that the person acted unlawfully under foreign law;

(c) whether the person's activities in relation to UK companies began after he became subject to foreign restrictions;

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(d) whether the person's activities (or proposed activities) in relation to UK companies are undertaken (or are proposed to be undertaken) outside the United Kingdom.

(4) Regulations under section 1184(3) (provision as to undertakings given to the Secretary of State) may include provision allowing the Secretary of State, in determining whether to accept an undertaking, to take into account matters other than criminal convictions notwithstanding that the person may be criminally liable in respect of those matters.

(5) Regulations under section 1184(5) (provision for application to court for permission to act) may include provision—

(a) entitling the Secretary of State to be represented at the hearing of the application, and

(b) as to the giving of evidence or the calling of witnesses by the Secretary of State at the hearing of the application.

Commencement Information

I439 S. 1185 wholly in force at 1.10.2009; s. 1185 not in force at Royal Assent, see s. 1300; s. 1185 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1185 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(w)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1186 Offence of breach of disqualification

(1) Regulations under section 1184 may provide that a person disqualified under this Part who acts in breach of the disqualification commits an offence.

(2) The regulations may provide that a person guilty of such an offence is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

(3) In relation to an offence committed before the commencement of **[**F1254paragraph 24(2) of Schedule 22 to the Sentencing Act 2020**]**, for "twelve months" in subsection (2)(b)(i) substitute " six months ".

Textual Amendments

F1254 Words in s. 1186(3) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 443(1)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

Commencement Information

I440 S. 1186 wholly in force at 1.10.2009; s. 1186 not in force at Royal Assent, see s. 1300; s. 1186 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts.

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6, 8, Sch. 5); s. 1186 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(w)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Power to make persons liable for company's debts

1187 Personal liability for debts of company

(1) The Secretary of State may provide by regulations that a person who, at a time when he is subject to foreign restrictions—

(a) is a director of a UK company, or

(b) is involved in the management of a UK company,

is personally responsible for all debts and other liabilities of the company incurred during that time.

(2) A person who is personally responsible by virtue of this section for debts and other liabilities of a company is jointly and severally liable in respect of those debts and liabilities with—

(a) the company, and

(b) any other person who (whether by virtue of this section or otherwise) is so liable.

(3) For the purposes of this section a person is involved in the management of a company if he is concerned, whether directly or indirectly, or takes part, in the management of the company.

(4) The regulations may make different provision for different cases and may in particular distinguish between cases by reference to—

(a) the conduct on the basis of which the person became subject to foreign restrictions;

(b) the nature of the foreign restrictions;

(c) the country or territory under whose law the foreign restrictions were imposed.

(5) Regulations under this section are subject to affirmative resolution procedure.

Commencement Information

I441 S. 1187 wholly in force at 1.10.2009; s. 1187 not in force at Royal Assent, see s. 1300; s. 1187 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1187 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(w)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Power to require statements to be sent to the registrar of companies

1188 Statements from persons subject to foreign restrictions

(1) The Secretary of State may make provision by regulations requiring a person who—

(a) is subject to foreign restrictions, and

(b) is not disqualified under this Part,

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to send a statement to the registrar if he does anything that, if done by a person disqualified under this Part, would be in breach of the disqualification.

(2) The statement must include such information as may be specified in the regulations relating to—

(a) the person's activities in relation to UK companies, and

(b) the foreign restrictions to which the person is subject.

(3) The statement must be sent to the registrar within such period as may be specified in the regulations.

(4) The regulations may make different provision for different cases and may in particular distinguish between cases by reference to—

(a) the conduct on the basis of which the person became subject to foreign restrictions;

(b) the nature of the foreign restrictions;

(c) the country or territory under whose law the foreign restrictions were imposed.

(5) Regulations under this section are subject to affirmative resolution procedure.

Commencement Information

I442 S. 1188 wholly in force at 1.10.2009; s. 1188 not in force at Royal Assent, see s. 1300; s. 1188 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1188 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(w)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1189 Statements from persons disqualified

(1) The Secretary of State may make provision by regulations requiring a statement or notice sent to the registrar of companies under any of the provisions listed below that relates (wholly or partly) to a person who—

(a) is a person disqualified under this Part, or

(b) is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986 (c. 46) or the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)),

to be accompanied by an additional statement.

(2) The provisions referred to above are—

(a) section 12 (statement of a company's proposed officers),

(b) section 167(2) (notice of person having become director), and

(c) section 276 (notice of a person having become secretary or one of joint secretaries).

(3) The additional statement is a statement that the person has obtained permission from a court, on an application under section 1184(5) or (as the case may be) for the purposes of section 1(1)(a) of the Company Directors Disqualification Act 1986 (c. 46) or Article 3(1) of the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)), to act in the capacity in question.

(4) Regulations under this section are subject to affirmative resolution procedure.

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Commencement Information

I443 S. 1189 wholly in force at 1.10.2009; s. 1189 not in force at Royal Assent, see s. 1300; s. 1189 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1189 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(w)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1190 Statements: whether to be made public

(1) Regulations under section 1188 or 1189 (statements required to be sent to registrar) may provide that a statement sent to the registrar of companies under the regulations is to be treated as a record relating to a company for the purposes of section 1080 (the companies register).

(2) The regulations may make provision as to the circumstances in which such a statement is to be, or may be—

(a) withheld from public inspection, or

(b) removed from the register.

(3) The regulations may, in particular, provide that a statement is not to be withheld from public inspection or removed from the register unless the person to whom it relates provides such information, and satisfies such other conditions, as may be specified.

(4) The regulations may provide that section 1081 (note of removal of material from the register) does not apply, or applies with such modifications as may be specified, in the case of material removed from the register under the regulations.

(5) In this section "specified" means specified in the regulations.

Commencement Information

I444 S. 1190 partly in force; s. 1190 not in force at Royal Assent, see s. 1300; s. 1190 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

1191 Offences

(1) Regulations under section 1188 or 1189 may provide that it is an offence for a person—

(a) to fail to comply with a requirement under the regulations to send a statement to the registrar;

(b) knowingly or recklessly to send a statement under the regulations to the registrar that is misleading, false or deceptive in a material particular.

(2) The regulations may provide that a person guilty of such an offence is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

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

(3) In relation to an offence committed before the commencement of **[**F1255paragraph 24(2) of Schedule 22 to the Sentencing Act 2020**]**, for "twelve months" in subsection (2)(b)(i) substitute " six months ".

Textual Amendments

F1255 Words in s. 1191(3) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 443(1)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

Commencement Information

I445 S. 1191 wholly in force at 1.10.2009; s. 1191 not in force at Royal Assent, see s. 1300; s. 1191 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1191 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(w)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

PART 41

BUSINESS NAMES

Modifications etc. (not altering text)

C1693 Pt. 41 applied (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **12(8)** (with reg. 189)

CHAPTER 1

RESTRICTED OR PROHIBITED NAMES

Introductory

1192 Application of this Chapter

(1) This Chapter applies to any person carrying on business in the United Kingdom.

(2) The provisions of this Chapter do not prevent—

(a) an individual carrying on business under a name consisting of his surname without any addition other than a permitted addition, or

(b) individuals carrying on business in partnership under a name consisting of the surnames of all the partners without any addition other than a permitted addition.

(3) The following are the permitted additions—

(a) in the case of an individual, his forename or initial;

(b) in the case of a partnership—

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(i) the forenames of individual partners or the initials of those forenames, or

(ii) where two or more individual partners have the same surname, the addition of "s" at the end of that surname;

(c) in either case, an addition merely indicating that the business is carried on in succession to a former owner of the business.

Sensitive words or expressions

1193 Name suggesting connection with government or public authority

(1) A person must not, without the approval of the Secretary of State, carry on business in the United Kingdom under a name that would be likely to give the impression that the business is connected with—

(a) Her Majesty's Government, any part of the Scottish administration **[**F1256, the Welsh Assembly Government**]** or Her Majesty's Government in Northern Ireland,

(b) any local authority, or

(c) any public authority specified for the purposes of this section by regulations made by the Secretary of State.

(2) For the purposes of this section—

"local authority" means—

(a) a local authority within the meaning of the Local Government Act 1972 (c. 70), the Common Council of the City of London or the Council of the Isles of Scilly,

(b) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39), or

(c) a district council in Northern Ireland;

"public authority" includes any person or body having functions of a public nature.

(3) Regulations under this section are subject to affirmative resolution procedure.

(4) A person who contravenes this section commits an offence.

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

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

Textual Amendments

F1256 Words in s. 1193(1)(a) inserted (6.11.2009) by The Government of Wales Act 2006 (Consequential Modifications, Transitional Provisions and Saving) Order 2009 (S.I. 2009/2958), **art. 11**

Commencement Information

I446 S. 1193 wholly in force at 1.10.2009; s. 1193 not in force at Royal Assent, see s. 1300; s. 1193 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

6, 8, Sch. 5); s. 1193 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(x)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1194 Other sensitive words or expressions

(1) A person must not, without the approval of the Secretary of State, carry on business in the United Kingdom under a name that includes a word or expression for the time being specified in regulations made by the Secretary of State under this section.

(2) Regulations under this section are subject to approval after being made.

(3) A person who contravenes this section commits an offence.

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

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

Commencement Information

I447 S. 1194 wholly in force at 1.10.2009; s. 1194 not in force at Royal Assent, see s. 1300; s. 1194 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1194 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(x)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1195 Requirement to seek comments of government department or other relevant body

(1) The Secretary of State may by regulations under—

(a) section 1193 (name suggesting connection with government or public authority), or

(b) section 1194 (other sensitive words or expressions),

require that, in connection with an application for the approval of the Secretary of State under that section, the applicant must seek the view of a specified Government department or other body.

(2) Where such a requirement applies, the applicant must request the specified department or other body (in writing) to indicate whether (and if so why) it has any objections to the proposed name.

(3) He must submit to the Secretary of State a statement that such a request has been made and a copy of any response received from the specified body.

(4) If these requirements are not complied with, the Secretary of State may refuse to consider the application for approval.

(5) In this section "specified" means specified in the regulations.

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Commencement Information

I448 S. 1195 wholly in force at 1.10.2009; s. 1195 not in force at Royal Assent, see s. 1300; s. 1195 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1195 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(x)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1196 Withdrawal of Secretary of State's approval

(1) This section applies to approval given for the purposes of—

section 1193 (name suggesting connection with government or public authority), or

section 1194 (other sensitive words or expressions).

(2) If it appears to the Secretary of State that there are overriding considerations of public policy that require such approval to be withdrawn, the approval may be withdrawn by notice in writing given to the person concerned.

(3) The notice must state the date as from which approval is withdrawn.

Misleading names

1197 Name containing inappropriate indication of company type or legal form

(1) The Secretary of State may make provision by regulations prohibiting a person from carrying on business in the United Kingdom under a name consisting of or containing specified words, expressions or other indications—

(a) that are associated with a particular type of company or form of organisation, or

(b) that are similar to words, expressions or other indications associated with a particular type of company or form of organisation.

(2) The regulations may prohibit the use of words, expressions or other indications—

(a) in a specified part, or otherwise than in a specified part, of a name;

(b) in conjunction with, or otherwise than in conjunction with, such other words, expressions or indications as may be specified.

(3) In this section "specified" means specified in the regulations.

(4) Regulations under this section are subject to negative resolution procedure.

(5) A person who uses a name in contravention of regulations under this section commits an offence.

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

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

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Commencement Information

I449 S. 1197 wholly in force at 1.10.2009; s. 1197 not in force at Royal Assent, see s. 1300; s. 1197 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1197 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(x)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1198 Name giving misleading indication of activities

(1) A person must not carry on business in the United Kingdom under a name that gives so misleading an indication of the nature of the activities of the business as to be likely to cause harm to the public.

(2) A person who uses a name in contravention of this section commits an offence.

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

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

Supplementary

1199 Savings for existing lawful business names

(1) This section has effect in relation to—

sections 1192 to 1196 (sensitive words or expressions), and

section 1197 (inappropriate indication of company type or legal form).

(2) Those sections do not apply to the carrying on of a business by a person who—

(a) carried on the business immediately before the date on which this Chapter came into force, and

(b) continues to carry it on under the name that immediately before that date was its lawful business name.

(3) Where—

(a) a business is transferred to a person on or after the date on which this Chapter came into force, and

(b) that person carries on the business under the name that was its lawful business name immediately before the transfer,

those sections do not apply in relation to the carrying on of the business under that name during the period of twelve months beginning with the date of the transfer.

(4) In this section "lawful business name", in relation to a business, means a name under which the business was carried on without contravening—

(a) section 2(1) of the Business Names Act 1985 (c. 7) or Article 4(1) of the Business Names (Northern Ireland) Order 1986 (S.I. 1986/1033 N.I. 7)), or

(b) after this Chapter has come into force, the provisions of this Chapter.

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CHAPTER 2

DISCLOSURE REQUIRED IN CASE OF INDIVIDUAL OR PARTNERSHIP

Introductory

1200 Application of this Chapter

(1) This Chapter applies to an individual or partnership carrying on business in the United Kingdom under a business name.

References in this Chapter to "a person to whom this Chapter applies" are to such an individual or partnership.

(2) For the purposes of this Chapter a "business name" means a name other than—

(a) in the case of an individual, his surname without any addition other than a permitted addition;

(b) in the case of a partnership—

(i) the surnames of all partners who are individuals, and

(ii) the corporate names of all partners who are bodies corporate,

without any addition other than a permitted addition.

(3) The following are the permitted additions—

(a) in the case of an individual, his forename or initial;

(b) in the case of a partnership—

(i) the forenames of individual partners or the initials of those forenames, or

(ii) where two or more individual partners have the same surname, the addition of "s" at the end of that surname;

(c) in either case, an addition merely indicating that the business is carried on in succession to a former owner of the business.

[F1257 1201 Information required to be disclosed

(1) The "information required by this Chapter" is—

(a) in the case of an individual, the individual's name;

(b) in the case of a partnership, the name of each member of the partnership;

and, in relation to each person so named, an address at which service of any document relating in any way to the business will be effective.

(2) If the individual or partnership has a place of business in the United Kingdom, the address must be in the United Kingdom.

(3) If the individual or partnership does not have a place of business in the United Kingdom, the address must be an address at which service of documents can be effected by physical delivery and the delivery of documents is capable of being recorded by the obtaining of an acknowledgement of delivery.]

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Textual Amendments

F1257 S. 1201 substituted (28.12.2009) by The Companies Act 2006 (Substitution of Section 1201) Regulations 2009 (S.I. 2009/3182), **reg. 2**

Disclosure requirements

1202 Disclosure required: business documents etc

(1) A person to whom this Chapter applies must state the information required by this Chapter, in legible characters, on all—

(a) business letters,

(b) written orders for goods or services to be supplied to the business,

(c) invoices and receipts issued in the course of the business, and

(d) written demands for payment of debts arising in the course of the business.

This subsection has effect subject to section 1203 (exemption for large partnerships if certain conditions met).

(2) A person to whom this Chapter applies must secure that the information required by this Chapter is immediately given, by written notice, to any person with whom anything is done or discussed in the course of the business and who asks for that information.

(3) The Secretary of State may by regulations require that such notices be given in a specified form.

(4) Regulations under this section are subject to negative resolution procedure.

Commencement Information

I450 S. 1202 wholly in force at 1.10.2009; s. 1202 not in force at Royal Assent, see s. 1300; s. 1202 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1202 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(x)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1203 Exemption for large partnerships if certain conditions met

(1) Section 1202(1) (disclosure required in business documents) does not apply in relation to a document issued by a partnership of more than 20 persons if the following conditions are met.

(2) The conditions are that—

(a) the partnership maintains at its principal place of business a list of the names of all the partners,

(b) no partner's name appears in the document, except in the text or as a signatory, and

(c) the document states in legible characters the address of the partnership's principal place of business and that the list of the partners' names is open to inspection there.

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(3) Where a partnership maintains a list of the partners' names for the purposes of this section, any person may inspect the list during office hours.

(4) Where an inspection required by a person in accordance with this section is refused, an offence is committed by any member of the partnership concerned who without reasonable excuse refused the inspection or permitted it to be refused.

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

1204 Disclosure required: business premises

(1) A person to whom this Chapter applies must, in any premises—

(a) where the business is carried on, and

(b) to which customers of the business or suppliers of goods or services to the business have access,

display in a prominent position, so that it may easily be read by such customers or suppliers, a notice containing the information required by this Chapter.

(2) The Secretary of State may by regulations require that such notices be displayed in a specified form.

(3) Regulations under this section are subject to negative resolution procedure.

Commencement Information

I451 S. 1204 wholly in force at 1.10.2009; s. 1204 not in force at Royal Assent, see s. 1300; s. 1204 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1204 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(x)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

Consequences of failure to make required disclosure

1205 Criminal consequences of failure to make required disclosure

(1) A person who without reasonable excuse fails to comply with the requirements of—

section 1202 (disclosure required: business documents etc), or

section 1204 (disclosure required: business premises),

commits an offence.

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

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

(4) References in this section to the requirements of section 1202 or 1204 include the requirements of regulations under that section.

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1206 Civil consequences of failure to make required disclosure

(1) This section applies to any legal proceedings brought by a person to whom this Chapter applies to enforce a right arising out of a contract made in the course of a business in respect of which he was, at the time the contract was made, in breach of section 1202(1) or (2) (disclosure in business documents etc) or section 1204(1) (disclosure at business premises).

(2) The proceedings shall be dismissed if the defendant (in Scotland, the defender) to the proceedings shows—

(a) that he has a claim against the claimant (pursuer) arising out of the contract that he has been unable to pursue by reason of the latter's breach of the requirements of this Chapter, or

(b) that he has suffered some financial loss in connection with the contract by reason of the claimant's (pursuer's) breach of those requirements,

unless the court before which the proceedings are brought is satisfied that it is just and equitable to permit the proceedings to continue.

(3) References in this section to the requirements of this Chapter include the requirements of regulations under this Chapter.

(4) This section does not affect the right of any person to enforce such rights as he may have against another person in any proceedings brought by that person.

CHAPTER 3

SUPPLEMENTARY

1207 Application of general provisions about offences

The provisions of sections 1121 to 1123 (liability of officer in default) and 1125 to 1131 (general provisions about offences) apply in relation to offences under this Part as in relation to offences under the Companies Acts.

1208 Interpretation

In this Part—

"business" includes a profession;

"initial" includes any recognised abbreviation of a name;

"partnership" means—

(a) a partnership within the Partnership Act 1890 (c. 39), or

(b) a limited partnership registered under the Limited Partnerships Act 1907 (c. 24),

or a firm or entity of a similar character formed under the law of a country or territory outside the United Kingdom;

"surname", in relation to a peer or person usually known by a British title different from his surname, means the title by which he is known.

Status: *Point in time view as at 31/12/2020.*
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PART 42

STATUTORY AUDITORS

Modifications etc. (not altering text)

C1694 Pt. 42 applied (with modifications) (4.4.2014 for specified purposes, 16.12.2014 in so far as not already in force) by Local Audit and Accountability Act 2014 (c. 2), s. 49(1), **Sch. 5 paras. 1-27** (with Sch. 13 para. 11); S.I. 2014/900, **art. 2(j)**; S.I. 2014/3319, **art. 2(e)** (as amended: (31.12.2020) by S.I. 2019/177, regs. 2, **57**; 2020 c. 1, **Sch. 5 para. 1(1)** and S.I. 2019/504, regs. 1(2), **3-6**; 2020 c. 1, **Sch. 5 para. 1(1)**; and (1.7.2022) by 2022 c. 31, s. 186(6), Sch. 4 para. 216, **Sch. 7 para. 28**; S.I. 2022/734, reg. 2(a), **Sch.** (with regs. 13, 29, 30))

C1695 Pt. 42 modified (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 43**

C1696 Pt. 42: functions transferred in part (6.4.2008 in accordance with art. 1 of the amending S.I.) by The Statutory Auditors (Delegation of Functions etc) Order 2008 (S.I. 2008/496), **art. 4** (which amending S.I. was revoked (2.7.2012) by S.I. 2012/1741, **art. 6**)

C1697 Pt. 42 applied (with modifications) (15.8.2008) by The Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2008 (S.I. 2008/1950), **reg. 6(5)**

C1698 Pt. 42: functions transferred in part (2.7.2012) by The Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 (S.I. 2012/1741), arts. 1(2), **7**, 8, 9 (with art. 16)

CHAPTER 1

INTRODUCTORY

1209 Main purposes of Part

The main purposes of this Part are—

(a) to secure that only persons who are properly supervised and appropriately qualified are appointed as statutory auditors, and

(b) to secure that audits by persons so appointed are carried out properly, with integrity and with a proper degree of independence.

1210 Meaning of "statutory auditor" etc

(1) In this Part "statutory auditor" means—

(a) a person appointed as auditor under Part 16 of this Act,

(b) a person appointed as auditor under section 77 of or Schedule 11 to the Building Societies Act 1986 (c. 53),

[F1258(c) a person appointed as auditor of a friendly society under section 72 of or Schedule 14 to the Friendly Societies Act 1992, where that society is—

(i) an insurer, or

(ii) an issuer whose transferable securities are admitted to trading on a [F1259UK regulated market];]

(d) F1260 . . . . . .

[F1261(e) a person appointed as auditor for the purposes of regulation 5 of the Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations

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2008 or appointed to report on the "aggregate accounts" within the meaning of those Regulations,**]**

[F1262(f) a person appointed as auditor of an insurance undertaking for the purposes of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008,**]**

F1263(g) . . . . . .

(h) a person appointed as auditor of a prescribed person under a prescribed enactment authorising or requiring the appointment;

and the expressions "statutory audit" and "statutory audit work" are to be construed accordingly.

(2) In this Part "audited person" means the person in respect of whom a statutory audit is conducted.

(3) In subsection (1)—

F1264…

"friendly society" means a friendly society within the meaning of the Friendly Societies Act 1992 (c. 40);

F1265. . . . . .

[F1266"insurer" means a person who would be an insurance undertaking, as defined in Article 2(1) of Council Directive 91/674/EEC of 19 December 1991 of the European Parliament and of the Council on the annual accounts and consolidated accounts of insurance undertakings as that Article had effect immediately before IP completion day, were the United Kingdom a member State;**]**

[F1267"issuer" has the same meaning as in Part 6 of the Financial Services and Markets Act 2000 (see section 102A(6));**]**

"prescribed" means prescribed, or of a description prescribed, by order made by the Secretary of State for the purposes of subsection (1)(h).

F1268…

(4) An order under this section is subject to negative resolution procedure.

Textual Amendments

F1258 S. 1210(1)(c) substituted (with effect in accordance with reg. 1(5) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **13(2)(a)**

F1259 Words in s. 1210(1)(c)(ii) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **11(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1260 S. 1210(1)(d) omitted (6.4.2008) by virtue of The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 15(1)(b)(i)**

F1261 S. 1210(1)(e) substituted (15.8.2008) by The Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2008 (S.I. 2008/1950), **reg. 31(1)** (with reg. 31(2))

F1262 S. 1210(1)(f) substituted (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 15(1)(a)**

F1263 S. 1210(1)(g) repealed (with effect in accordance with reg. 19(2) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 4** (with reg. 2(6)(7))

F1264 Words in s. 1210(3) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **11(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

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F1265 S. 1210(3): definition of "industrial and provident society" omitted (6.4.2008) by virtue of The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 15(1)(b)(ii)**

F1266 Words in s. 1210(3) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **11(b)(ii)** (as amended by S.I. 2020/523, regs. 1(2), **14(d)**); 2020 c. 1, **Sch. 5 para. 1(1)**

F1267 Words in s. 1210(3) inserted (with effect in accordance with reg. 1(5) of the amending S.I.) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **13(2)(b)**

F1268 Words in s. 1210(3) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **11(b)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C1699 S. 1210(1)(a) modified (8.12.2017) by The Risk Transformation Regulations 2017 (S.I. 2017/1212), regs. 1(2), **165** (with reg. 189)

Commencement Information

I452 S. 1210 wholly in force at 6.4.2008; s. 1210 not in force at Royal Assent, see s. 1300; s. 1210 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1210 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(u)** (with savings in arts. 7, 12, Sch. 4 paras. 37-42)

1211 Eligibility for appointment as a statutory auditor: overview

A person is eligible for appointment as a statutory auditor only if the person is so eligible—

(a) by virtue of Chapter 2 (individuals and firms), or

(b) by virtue of Chapter 3 (Comptroller and Auditor General, etc).

CHAPTER 2

INDIVIDUALS AND FIRMS

Eligibility for appointment

1212 Individuals and firms: eligibility for appointment as a statutory auditor

(1) An individual or firm is eligible for appointment as a statutory auditor if the individual or firm—

(a) is a member of a recognised supervisory body, and

(b) is eligible for appointment under the rules of that body.

(2) In the cases to which section 1222 applies (individuals retaining only 1967 Act authorisation) a person's eligibility for appointment as a statutory auditor is restricted as mentioned in that section.

1213 Effect of ineligibility

(1) No person may act as statutory auditor of an audited person if he is ineligible for appointment as a statutory auditor.

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(2) If at any time during his term of office a statutory auditor becomes ineligible for appointment as a statutory auditor, he must immediately—

(a) resign his office (with immediate effect), and

(b) give notice in writing to the audited person that he has resigned by reason of his becoming ineligible for appointment.

(3) A person is guilty of an offence if—

(a) he acts as a statutory auditor in contravention of subsection (1), or

(b) he fails to give the notice mentioned in paragraph (b) of subsection (2) in accordance with that subsection.

(4) A person guilty of an offence under subsection (3) is liable—

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

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

(5) A person is guilty of an offence if—

(a) he has been convicted of an offence under subsection (3)(a) or this subsection, and

(b) he continues to act as a statutory auditor in contravention of subsection (1) after the conviction.

(6) A person is guilty of an offence if—

(a) he has been convicted of an offence under subsection (3)(b) or this subsection, and

(b) he continues, after the conviction, to fail to give the notice mentioned in subsection (2)(b).

(7) A person guilty of an offence under subsection (5) or (6) is liable—

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

(b) on summary conviction, to a fine not exceeding **[**[F1269]one-tenth of the statutory maximum**][**[F1269]one-tenth of the greater of £5,000 or the amount corresponding to level 4 on the standard scale for summary offences**]** for each day on which the act or the failure continues.

(8) In proceedings against a person for an offence under this section it is a defence for him to show that he did not know and had no reason to believe that he was, or had become, ineligible for appointment as a statutory auditor.

Textual Amendments

F1269 Words in s. 1213(7)(b) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(24)** (with reg. 5(1))

Independence requirement

1214 Independence requirement

(1) A person may not act as statutory auditor of an audited person if one or more of subsections (2), (3) and (4) apply to him.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(2) This subsection applies if the person is—

(a) an officer or employee of the audited person, or

(b) a partner or employee of such a person, or a partnership of which such a person is a partner.

(3) This subsection applies if the person is—

(a) an officer or employee of an associated undertaking of the audited person, or

(b) a partner or employee of such a person, or a partnership of which such a person is a partner.

(4) This subsection applies if there exists, between—

(a) the person or an associate of his, and

(b) the audited person or an associated undertaking of the audited person,

a connection of any such description as may be specified by regulations made by the Secretary of State.

(5) An auditor of an audited person is not to be regarded as an officer or employee of the person for the purposes of subsections (2) and (3).

(6) In this section "associated undertaking", in relation to an audited person, means—

(a) a parent undertaking or subsidiary undertaking of the audited person, or

(b) a subsidiary undertaking of a parent undertaking of the audited person.

(7) Regulations under subsection (4) are subject to negative resolution procedure.

Modifications etc. (not altering text)

C1700 S. 1214 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations 2007 (S.I. 2007/2974), **reg. 9(8)(b)**

C1701 S. 1214 applied (1.1.2012) by Budget Responsibility and National Audit Act 2011 (c. 4), ss. 20, 29, **Sch. 2 para. 25(4)**; S.I. 2011/2576, **art. 3(c)** (with art. 4)

Commencement Information

I453 S. 1214 wholly in force at 6.4.2008; s. 1214 not in force at Royal Assent, see s. 1300; s. 1214 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1214 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(u)** (with savings in arts. 7, 12, Sch. 4 paras. 37-42)

1215 Effect of lack of independence

(1) If at any time during his term of office a statutory auditor becomes prohibited from acting by section 1214(1), he must immediately—

(a) resign his office (with immediate effect), and

(b) give notice in writing to the audited person that he has resigned by reason of his lack of independence.

(2) A person is guilty of an offence if—

(a) he acts as a statutory auditor in contravention of section 1214(1), or

(b) he fails to give the notice mentioned in paragraph (b) of subsection (1) in accordance with that subsection.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

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

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

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

(4) A person is guilty of an offence if—

(a) he has been convicted of an offence under subsection (2)(a) or this subsection, and

(b) he continues to act as a statutory auditor in contravention of section 1214(1) after the conviction.

(5) A person is guilty of an offence if—

(a) he has been convicted of an offence under subsection (2)(b) or this subsection, and

(b) after the conviction, he continues to fail to give the notice mentioned in subsection (1)(b).

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

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

(b) on summary conviction, to a fine not exceeding **[**[F1270]one-tenth of the statutory maximum**][**[F1270]one-tenth of the greater of £5,000 or the amount corresponding to level 4 on the standard scale for summary offences**]** for each day on which the act or the failure continues.

(7) In proceedings against a person for an offence under this section it is a defence for him to show that he did not know and had no reason to believe that he was, or had become, prohibited from acting as statutory auditor of the audited person by section 1214(1).

Textual Amendments

F1270 Words in s. 1215(6)(b) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(25)** (with reg. 5(1))

Effect of appointment of a partnership

1216 Effect of appointment of a partnership

(1) This section applies where a partnership constituted under the law of—

(a) England and Wales,

(b) Northern Ireland, or

(c) any other country or territory in which a partnership is not a legal person,

is by virtue of this Chapter appointed as statutory auditor of an audited person.

(2) Unless a contrary intention appears, the appointment is an appointment of the partnership as such and not of the partners.

(3) Where the partnership ceases, the appointment is to be treated as extending to—

(a) any appropriate partnership which succeeds to the practice of that partnership, or

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(b) any other appropriate person who succeeds to that practice having previously carried it on in partnership.

(4) For the purposes of subsection (3)—

(a) a partnership is to be regarded as succeeding to the practice of another partnership only if the members of the successor partnership are substantially the same as those of the former partnership, and

(b) a partnership or other person is to be regarded as succeeding to the practice of a partnership only if it or he succeeds to the whole or substantially the whole of the business of the former partnership.

(5) Where the partnership ceases and the appointment is not treated under subsection (3) as extending to any partnership or other person, the appointment may with the consent of the audited person be treated as extending to an appropriate partnership, or other appropriate person, who succeeds to—

(a) the business of the former partnership, or

(b) such part of it as is agreed by the audited person is to be treated as comprising the appointment.

(6) For the purposes of this section, a partnership or other person is "appropriate" if it or he—

(a) is eligible for appointment as a statutory auditor by virtue of this Chapter, and

(b) is not prohibited by section 1214(1) from acting as statutory auditor of the audited person.

Modifications etc. (not altering text)

C1702 S. 1216 applied (with modifications) (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), **art. 5** (with art. 6, 12))

C1703 S. 1216 applied (6.4.2008) by 1996 c. 52, Sch. 1 para. 16C(3) (as substituted by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 3(1), **Sch. 1 para. 202(3)** (with arts. 6, 11, 12))

C1704 S. 1216 applied (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 131(7)**, 325; S.I. 2010/862, **art. 2** (with Sch.)

C1705 S. 1216 applied (1.1.2012) by Budget Responsibility and National Audit Act 2011 (c. 4), ss. 20, 29, **Sch. 2 para. 25(4)**; S.I. 2011/2576, **art. 3(c)** (with art. 4)

Supervisory bodies

1217 Supervisory bodies

(1) In this Part a "supervisory body" means a body established in the United Kingdom (whether a body corporate or an unincorporated association) which maintains and enforces rules as to—

(a) the eligibility of persons for appointment as a statutory auditor, and

(b) the conduct of statutory audit work,

which are binding on persons seeking appointment or acting as a statutory auditor [F1271]. . . because they are members of that body [F1271]. . . .

[F1272](1A) The rules referred to in [F1273]paragraphs 9(1A) and 10C(3) (bar on appointment as director or other [F1274]officer),] paragraph 9(3)(b) (confidentiality of

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information)**][**[F1275]and paragraph 12(3)(b)(v) (temporary prohibition from exercising functions in a firm)**]** of Schedule 10 must also be binding on persons who—

(a) have sought appointment or acted as a statutory auditor, and

(b) have been members of the body at any time after the commencement of this Part.**]**

(2) In this Part references to the members of a supervisory body are to the persons who, whether or not members of the body, are subject to its rules in seeking appointment or acting as a statutory auditor.

(3) In this Part references to the rules of a supervisory body are to the rules (whether or not laid down by the body itself) which the body **[**[F1276]or the competent authority**]** has power to enforce and which are relevant for the purposes of this Part.

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

(4) Schedule 10 has effect with respect to the recognition of supervisory bodies for the purposes of this Part.

Textual Amendments

F1271 Words in s. 1217(1) omitted (6.4.2008) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 4(2)**

F1272 S. 1217(1A) inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 4(3)**

F1273 Words in s. 1217(1A) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 29(2)**

F1274 Words in s. 1217(1A) substituted (1.5.2017) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **13(3)(a)**

F1275 Words in s. 1217(1A) inserted (1.5.2017) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **13(3)(b)**

F1276 Words in s. 1217(3) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 29(3)**

1218 Exemption from liability for damages

(1) No person within subsection (2) is to be liable in damages for anything done or omitted in the discharge or purported discharge of functions to which this subsection applies.

(2) The persons within this subsection are—

(a) any recognised supervisory body,

(b) any officer or employee of a recognised supervisory body, and

(c) any member of the governing body of a recognised supervisory body.

(3) Subsection (1) applies to the functions of a recognised supervisory body so far as relating to, or to matters arising out of, any of the following—

(a) rules, practices, powers and arrangements of the body to which the requirements of Part 2 of Schedule 10 apply;

(b) the obligations with which paragraph 20 of that Schedule requires the body to comply;

(c) any guidance issued by the body;

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(d) the obligations imposed on the body by or by virtue of this Part **[**F1277or by or by virtue of the Statutory Auditors and Third Country Auditors Regulations 2016;**]**

[F1278(e) the obligations imposed on the body by or by virtue of the Audit Regulation.**]**

(4) The reference in subsection (3)(c) to guidance issued by a recognised supervisory body is a reference to any guidance or recommendation which is—

(a) issued or made by it to all or any class of its members or persons seeking to become members, and

(b) relevant for the purposes of this Part **[**F1279, the Statutory Auditors and Third Country Auditors Regulations 2016 or the Audit Regulation**]**,

including any guidance or recommendation relating to the admission or expulsion of members of the body, so far as relevant for the purposes of this Part **[**F1280, the Statutory Auditors and Third Country Auditors Regulations 2016 or the Audit Regulation**]**.

(5) Subsection (1) does not apply—

(a) if the act or omission is shown to have been in bad faith, or

(b) so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42) (acts of public authorities incompatible with Convention rights).

Textual Amendments

F1277 Words in s. 1218(3)(d) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 30(2)(a)**

F1278 S. 1218(3)(e) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 30(2)(b)**

F1279 Words in s. 1218(4)(b) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 30(3)(a)**

F1280 Words in s. 1218(4) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 30(3)(b)**

Professional qualifications

1219 Appropriate qualifications

(1) A person holds an appropriate qualification for the purposes of this Chapter if and only if—

(a) he holds a recognised professional qualification obtained in the United Kingdom,

(b) immediately before the commencement of this Chapter, he—

(i) held an appropriate qualification for the purposes of Part 2 of the Companies Act 1989 (c. 40) (eligibility for appointment as company auditor) by virtue of section 31(1)(a) or (c) of that Act, or

(ii) was treated as holding an appropriate qualification for those purposes by virtue of section 31(2), (3) or (4) of that Act,

(c) immediately before the commencement of this Chapter, he—

(i) held an appropriate qualification for the purposes of Part III of the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5)) by virtue of Article 34(1)(a) or (c) of that Order, or

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(ii) was treated as holding an appropriate qualification for those purposes by virtue of Article 34(2), (3) or (4) of that Order,

(d) he is within subsection (2),**[**F1281 or**]**

(e) F1282 . . . . . .

(f) subject to any direction under section 1221(5), he is regarded for the purposes of this Chapter as holding an approved **[**F1283third country**]** qualification.

(2) A person is within this subsection if—

(a) before 1st January 1990, he began a course of study or practical training leading to a professional qualification in accountancy offered by a body established in the United Kingdom,

(b) he obtained that qualification on or after 1st January 1990 and before 1st January 1996, and

(c) the Secretary of State **[**F1284approved his qualification before 1st October 2018**]** as an appropriate qualification for the purposes of this Chapter.

F1285(3) . . . . . .

Textual Amendments

F1281 Word in s. 1219(1) inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 5(a)**

F1282 S. 1219(1)(e) omitted (6.4.2008) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 5(b)**

F1283 Words in s. 1219(1)(f) substituted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 5(c)**

F1284 Words in s. 1219(2)(c) substituted (1.5.2017) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **13(4)(a)**

F1285 S. 1219(3) omitted (1.10.2018) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(3), **13(4)(b)**

1220 Qualifying bodies and recognised professional qualifications

(1) In this Part a "qualifying body" means a body established in the United Kingdom (whether a body corporate or an unincorporated association) which offers a professional qualification in accountancy.

(2) In this Part references to the rules of a qualifying body 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 this Part.

This includes, so far as so relevant, rules relating to—

(a) admission to or expulsion from a course of study leading to a qualification,

(b) the award or deprivation of a qualification, or

(c) the approval of a person for the purposes of giving practical training or the withdrawal of such approval.

(3) Schedule 11 has effect with respect to the recognition for the purposes of this Part of a professional qualification offered by a qualifying body.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

1221 Approval of [F1286third country] qualifications

(1) The Secretary of State may declare that the following are to be regarded for the purposes of this Chapter as holding an approved **[**F1286third country**]** qualification—

(a) persons who are qualified to audit accounts under the law of a specified **[**F1287third country**]** , or

(b) persons who hold a specified professional qualification in accountancy obtained in a specified **[**F1287third country**]** .

[F1288(1A) A declaration under subsection (1)(a) or (b) must contain provision to the effect that a person is not to be regarded as holding an approved third country qualification for the purposes of this Chapter unless the person—

(a) already holds a professional qualification which covers all the subjects which are covered by a recognised professional qualification and which are subjects of which knowledge is essential for the pursuit of the profession of statutory auditor, or

(b) holds a professional qualification which does not cover all those subjects and has met whichever of the requirements of subsection (1B) is specified in the declaration.

(1B) The declaration must specify that the condition in subsection (1A)(b) is satisfied in one of the following ways—

(a) only by passing an aptitude test in accordance with subsection (7A),

(b) only by completing an adaptation period in accordance with subsections (7C) and (7D), or

(c) either by passing an aptitude test in accordance with subsection (7A) or by completing an adaptation period in accordance with subsections (7C) and (7D), according to the choice of the person.**]**

(2) A declaration under subsection (1)(b) may be expressed to be subject to the satisfaction of any specified requirement or requirements.

(3) The Secretary of State may make a declaration under subsection (1) only if he is satisfied that—

(a) in the case of a declaration under subsection (1)(a), the fact that the persons in question are qualified to audit accounts under the law of the specified third country, **[**F1289taken with any requirement or requirements to be specified under subsection (1A),**]** or

(b) in the case of a declaration under subsection (1)(b), the specified professional qualification taken with any requirement or requirements to be specified under **[**F1290subsections (1A) or (2)**]** ,

affords an assurance of professional competence equivalent to that afforded by a recognised professional qualification.

(4) The Secretary of State may make a declaration under subsection (1) only if he is satisfied that the treatment that the persons who are the subject of the declaration will receive as a result of it is comparable to the treatment which is, or is likely to be, afforded in the specified **[**F1287third country**]** or a part of it to—

(a) in the case of a declaration under subsection (1)(a), some or all persons who are eligible to be appointed as a statutory auditor, and

(b) in the case of a declaration under subsection (1)(b), some or all persons who hold a corresponding recognised professional qualification.

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(5) The Secretary of State may direct that persons holding an approved **[**F1286third country**]** qualification are not to be treated as holding an appropriate qualification for the purposes of this Chapter unless they hold such additional educational qualifications as the Secretary of State may specify for the purpose of ensuring that such persons have an adequate knowledge of the law and practice in the United Kingdom relevant to the audit of accounts.

(6) The Secretary of State may give different directions in relation to different approved **[**F1286third country**]** qualifications.

(7) The Secretary of State may, if he thinks fit, having regard to the considerations mentioned in subsections (3) and (4), withdraw a declaration under subsection (1) in relation to—

(a) persons becoming qualified to audit accounts under the law of the specified **[**F1287third country**]** after such date as he may specify, or

(b) persons obtaining the specified professional qualification after such date as he may specify.

[F1291(7A) An aptitude test required for the purposes of subsection **[**F1292(1B)**]** —

(a) must test the person's knowledge of subjects—

(i) that are covered by a recognised professional qualification,

(ii) that are not covered by the professional qualification already held by the person, and

(iii) the knowledge of which is essential for the pursuit of the profession of statutory auditor;

(b) may test the person's knowledge of rules of professional conduct;

(c) must not test the person's knowledge of any other matters.

F1293(7B) . . . . . .**]**

[F1294(7C) An adaptation period is a period, not exceeding three years, in which the person ("the applicant") pursues the profession of statutory auditor under the supervision of another person who holds an appropriate qualification, subject to an assessment ("the ability assessment") of the applicant's ability to pursue the profession of statutory auditor in the United Kingdom.

(7D) The adaptation period must be completed, and the ability assessment must be carried out, in accordance with the rules and practices of a recognised supervisory body (see paragraph 7A of Schedule 10).**]**

(8) The Secretary of State may, if he thinks fit, having regard to the considerations mentioned in subsections (3) and (4), vary or revoke a requirement specified under subsection (2) from such date as he may specify.

(9) F1295. . . . . .

Textual Amendments

F1286 Words in s. 1221 substituted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 6(2)**

F1287 Words in s. 1221(1)(a)(b)(3)(a)(4)(7)(a) substituted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 6(3)**

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F1288 S. 1221(1A)(1B) substituted for s. 1221(1A) (6.4.2018) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 21(a)** (with reg. 2(6)(7))
F1289 Words in s. 1221(3)(a) inserted (6.4.2018) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 21(b)(i)** (with reg. 2(6)(7))
F1290 Words in s. 1221(3)(b) substituted (6.4.2018) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 21(b)(ii)** (with reg. 2(6)(7))
F1291 S. 1221(7A)(7B) inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 6(5)**
F1292 Word in s. 1221(7A) substituted (6.4.2018) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 21(c)** (with reg. 2(6)(7))
F1293 S. 1221(7B) omitted (6.4.2018) by virtue of The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 21(d)** (with reg. 2(6)(7))
F1294 S. 1221(7C)(7D) inserted (6.4.2018) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 21(e)** (with reg. 2(6)(7))
F1295 S. 1221(9) omitted (6.4.2008) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 6(6)**

1222 Eligibility of individuals retaining only 1967 Act authorisation

(1) A person whose only appropriate qualification is based on his retention of an authorisation originally granted by the Board of Trade or the Secretary of State under section 13(1) of the Companies Act 1967 (c. 81) is eligible only for appointment as auditor of an unquoted company.

(2) A company is "unquoted" if, at the time of the person's appointment, neither the company, nor any parent undertaking of which it is a subsidiary undertaking, is a quoted company within the meaning of section 385(2).

(3) References to a person eligible for appointment as a statutory auditor by virtue of this Part in enactments relating to eligibility for appointment as auditor of a person other than a company do not include a person to whom this section applies.

Information

1223 Matters to be notified to the Secretary of State

(1) The Secretary of State may require a recognised supervisory body or a recognised qualifying body—

(a) to notify him immediately of the occurrence of such events as he may specify in writing and to give him such information in respect of those events as is so specified;

(b) to give him, at such times or in respect of such periods as he may specify in writing, such information as is so specified.

(2) The notices and information required to be given must be such as the Secretary of State may reasonably require for the exercise of his functions under this Part.

(3) The Secretary of State may require information given under this section to be given in a specified form or verified in a specified manner.

(4) Any notice or information required to be given under this section must be given in writing unless the Secretary of State specifies or approves some other manner.

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[F1296 1223ZA Matters to be notified to the competent authority

(1) The competent authority may require a recognised supervisory body—

(a) to notify the competent authority immediately of the occurrence of such events as the competent authority may specify in writing and to give the competent authority such information in respect of those events as is so specified;

(b) to give the competent authority, at such times or in respect of such periods as the competent authority may specify in writing, such information as is so specified.

(2) The notices and information required to be given must be such as the competent authority may reasonably require for the exercise of its functions under this Part, the Statutory Auditors and Third Country Auditors Regulations 2016 or the Audit Regulation .

(3) The competent authority may require information given under this section to be given in a specified form or verified in a specified manner.

(4) Any notice or information required to be given under this section must be given in writing unless the competent authority specifies or approves some other manner.**]**

Textual Amendments

F1296 S. 1223ZA inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 31**

[F1297 1223A Notification of matters relevant to [F1298 approved third country competent authorities]

[F1299(1) A recognised supervisory body must notify the Secretary of State—

(a) if a notifiable person becomes eligible for appointment as a statutory auditor, unless the notifiable person is an individual;

(b) if a notifiable person's eligibility for appointment as a statutory auditor is withdrawn;

(c) of the reasons for any such withdrawal.**]**

(2) A recognised supervisory body must also notify the Secretary of State of any reasonable grounds it has for suspecting that—

(a) a person has contravened the law of the United Kingdom, or **[**F1300an equivalent third country or transitional third country**]**, and

(b) the act or omission constituting that contravention took place on the territory of an **[**F1301equivalent third country or transitional third country**]**.

(3) In this section " notifiable person " means a member of the recognised supervisory body in question—

(a) who is also **[**F1302a third country auditor that has been approved by an approved third country competent authority**]**; and

(b) in respect of whom the **[**F1303approved third country**]** competent authority is not the recognised supervisory body itself.**]**

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F1297 S. 1223A inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 7(1)** (with reg. 7(2) (as amended by S.I. 2008/499, reg. 2(3)))

F1298 Words in s. 1223A heading substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **12(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1299 S. 1223A(1) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 32(2)**

F1300 Words in s. 1223A(2)(a) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **12(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F1301 Words in s. 1223A(2)(b) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **12(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F1302 Words in s. 1223A(3)(a) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **12(c)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F1303 Words in s. 1223A(3)(b) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **12(c)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

1224 The Secretary of State's power to call for information

(1) The Secretary of State may by notice in writing require a person within subsection (2) to give him such information as he may reasonably require for the exercise of his functions under this Part.

(2) The persons within this subsection are—

(a) any recognised supervisory body,

(b) any recognised qualifying body, and

(c) any person eligible for appointment as a statutory auditor by virtue of this Chapter.

(3) The Secretary of State may require that any information which he requires under this section is to be given within such reasonable time and verified in such manner as he may specify.

[F1304 1224A The competent authority's power to call for information

(1) The competent authority may by notice in writing require any recognised supervisory body to give the competent authority such information as it may reasonably require for the exercise of its functions under this Part, the Statutory Auditors and Third Country Auditors Regulations 2016 or the Audit Regulation.

(2) The competent authority may require that any information which it requires under this section is to be given within such reasonable time and verified in such manner as it may specify.]

Status: *Point in time view as at 31/12/2020.*
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Textual Amendments

F1304 S. 1224ZA inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 33**

[F1305 1224B Restrictions on disclosure

(1) This section applies to information (in whatever form)—

(a) relating to the private affairs of an individual, or

(b) relating to any particular business,

that is provided to a body to which this section applies in connection with the exercise of its functions under this Part **[**F1306 sections 522 to 524 (notification to appropriate audit authority of resignation or removal of auditor), the Statutory Auditors and Third Country Auditors Regulations 2016 or the Audit Regulation**]**

(2) This section applies to—

(a) a recognised supervisory body,

(b) a recognised qualifying body,

[F1307 (c) the competent authority,**]**

(d) the Independent Supervisor,

(e) the Secretary of State, and

(f) a body designated by the Secretary of State under section 1252 (delegation of the Secretary of State's functions).

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

(4) Subsection (3) does not apply to any disclosure of information that—

(a) is made for the purpose of facilitating the carrying out by the body of any of its functions,

(b) is made to a person specified in Part 1 of Schedule 11A,

(c) is of a description specified in Part 2 of that Schedule, or

(d) is made in accordance with Part 3 of that Schedule.

F1308 (5) . . . . . .

(6) This section does not prohibit the disclosure of information if the information is or has been available to the public from any other source.

(7) Nothing in this section authorises the making of a disclosure in contravention of **[**F1309 the data protection legislation**]**.

Textual Amendments

F1305 Ss. 1224A, 1224B inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 8(1)** (with reg. 8(3))

F1306 Words in s. 1224A(1) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 34(2)**

F1307 S. 1224A(2)(c) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 34(3)**

Status: *Point in time view as at 31/12/2020.*
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F1308 S. 1224A(5) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **13**; 2020 c. 1, Sch. 5 para. 1(1)
F1309 Words in s. 1224A(7) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 125** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

1224B Offence of disclosure in contravention of section 1224A

(1) A person who discloses information in contravention of section 1224A (restrictions on disclosure) is guilty of an offence, unless—

(a) he did not know, and had no reason to suspect, that the information had been provided as mentioned in section 1224A(1), or

(b) he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;

(ii) in England and Wales or Northern Ireland, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum, or to both.**]**

Textual Amendments
F1305 Ss. 1224A, 1224B inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 8(1)** (with reg. 8(3))

Enforcement

[F1310 1225 Enforcement: general

(1) This section applies if at any time it appears to the Secretary of State—

(a) in the case of a recognised supervisory body, that any requirement of Part 2 or 3 of Schedule 10 is not satisfied,

(b) in the case of a recognised professional qualification offered by a recognised qualifying body, that any requirement of Part 2 of Schedule 11 is not satisfied,

F1311 ...

(c) that a recognised supervisory body or a recognised qualifying body has not complied with an obligation imposed on it by or by virtue of this Part (other than an obligation to pay a financial penalty under section 1225D) **[**F1312 or

(d) that a recognised supervisory body has not complied with an obligation imposed on it by or by virtue of the Statutory Auditors and Third Country Auditors Regulations 2016.**]**

(2) The Secretary of State may do any one or more of the following—

(a) give a direction to the body under section 1225A;

(b) make an application to the court in respect of the body under section 1225C;

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(c) impose a financial penalty on the body under section 1225D.

(3) Subsection (2) is without prejudice to the powers of the Secretary of State under paragraph 3 of Schedule 10 and paragraph 3 of Schedule 11 (revocation of recognition orders) **[**[F1313]or the powers of the competent authority under regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016.**]]**

Textual Amendments

F1310 Ss. 1225-1225G substituted (2.7.2012) for s. 1225 by The Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 (S.I. 2012/1741), arts. 1(2), **4**

F1311 Word in s. 1225(1)(b) omitted (17.6.2016) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 35(2)(a)**

F1312 S. 1225(1)(d) and word inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 35(2)(b)**

F1313 Words in s. 1225(3) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 35(3)**

[[F1314]**1225C Directions: general**

(1) A direction under this section is one directing a body to take such steps as the Secretary of State considers will—

(a) secure that the requirement in question is satisfied or the obligation in question is complied with, or

(b) mitigate the effect, or prevent the recurrence, of the failure to satisfy the requirement or comply with the obligation.

(2) A direction under this section—

(a) may only require a body to take steps which it has power to take;

(b) may require a body to refrain from taking a particular course of action.

(3) The power to give a direction under this section is subject to any provision made by or under any other enactment.

(4) The Secretary of State may take such steps as the Secretary of State considers appropriate to monitor the extent to which a direction under this section is being, or has been, complied with.

Textual Amendments

F1314 Ss. 1225-1225G substituted (2.7.2012) for s. 1225 by The Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 (S.I. 2012/1741), arts. 1(2), **4**

1225B Directions: supplementary

(1) Before giving a direction to a body under section 1225A, the Secretary of State must give the body a notice (a "notice of proposed direction") accompanied by a copy of the proposed direction.

(2) A notice of proposed direction must—

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(a) state that the Secretary of State proposes to give the body a direction in the form of the accompanying draft,

(b) identify the requirement or obligation in question and state why it appears to the Secretary of State that the requirement is not satisfied or the obligation has not been complied with,

(c) specify a period within which the body may make written representations with respect to the proposal.

(3) The period specified under subsection (2)(c)—

(a) must begin with the date on which the notice of proposed direction is given to the body, and

(b) must not be less than 14 days.

(4) Written representations made by the body within the period specified under subsection (2)(c) must be considered by the Secretary of State.

(5) After considering any such representations or, in their absence, on the expiry of the period specified under subsection (2)(c), the Secretary of State must decide whether to give the body the proposed direction.

(6) The Secretary of State must give notice of the decision (a "direction decision notice") to the body.

(7) Where the Secretary of State decides to give the proposed direction, the direction decision notice must—

(a) contain the direction,

(b) state the time at which the direction is to take effect, and

(c) specify the Secretary of State's reasons for the decision to give the direction.

(8) Where the Secretary of State decides to give the proposed direction, the Secretary of State must publish the direction decision notice in such manner as the Secretary of State considers appropriate for bringing the direction to the attention of persons likely to be affected.

(9) The Secretary of State may revoke a direction given to a body under section 1225A and, where doing so, must—

(a) give the body notice of the revocation, and

(b) publish the notice in the same manner as the direction decision notice was published.

Textual Amendments

F1314 Ss. 1225-1225G substituted (2.7.2012) for s. 1225 by The Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 (S.I. 2012/1741), arts. 1(2), **4**

1225C Compliance orders

(1) If on an application under this section in respect of a body, the court decides that a requirement is not satisfied or an obligation has not been complied with, the court may, subject to subsection (2), order the body to take such steps as it considers will secure that the requirement is satisfied or the obligation is complied with.

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(2) Where the obligation is an obligation to comply with a direction under section 1225A, the court may not order compliance with the direction unless it also decides that—

(a) the requirement in respect of which the direction was given is not satisfied, or

(b) the obligation in respect of which the direction was given has not been complied with.

(3) In this section, " the court " means the High Court or, in Scotland, the Court of Session.

Textual Amendments

F1314 Ss. 1225-1225G substituted (2.7.2012) for s. 1225 by The Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 (S.I. 2012/1741), arts. 1(2), **4**

1225D Financial penalties: general

(1) A financial penalty imposed on a body under this section is a financial penalty of such amount as the Secretary of State considers appropriate, subject to subsection (2).

(2) In deciding what amount is appropriate the Secretary of State—

(a) must have regard to the nature of the requirement which is not satisfied or the obligation which has not been complied with; and

(b) must not take into account the Secretary of State's costs in discharging functions under this Part.

(3) A financial penalty under this section is payable to the Secretary of State.

(4) In sections 1225E to 1225G, references to a penalty are to a financial penalty under this section.

Textual Amendments

F1314 Ss. 1225-1225G substituted (2.7.2012) for s. 1225 by The Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 (S.I. 2012/1741), arts. 1(2), **4**

1225E Financial penalties: supplementary

(1) Before imposing a penalty on a body, the Secretary of State must give the body a notice (a "notice of proposed penalty")—

(a) stating that the Secretary of State proposes to impose a penalty and the amount of the penalty proposed,

(b) identifying the requirement or obligation in question and stating why it appears to the Secretary of State that the requirement is not satisfied or the obligation has not been complied with, and

(c) specifying a period within which the body may make written representations with respect to the proposed penalty.

(2) The period specified under subsection (1)(c)—

(a) must begin with the date on which the notice of proposed penalty is given to the body, and

(b) must not be less than 21 days.

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(3) Written representations made by the body before the end of the period specified under subsection (1)(c) must be considered by the Secretary of State.

(4) After considering any such representations or, in their absence, on the expiry of the period specified under subsection (1)(c), the Secretary of State must decide—

(a) whether to impose a penalty, and

(b) where the Secretary of State decides to do so, whether to reduce the proposed amount of the penalty.

(5) The Secretary of State must give notice of the decision (a "penalty decision notice") to the body.

(6) Where the Secretary of State decides to impose a penalty, the penalty decision notice must—

(a) state that the Secretary of State has imposed a penalty on the body and its amount,

(b) identify the requirement or obligation in question and state—

(i) why it appears to the Secretary of State that the requirement is not satisfied or the obligation has not been complied with, or

(ii) where, by that time, the requirement is satisfied or the obligation has been complied with, why it appeared to the Secretary of State when giving the notice of proposed penalty that the requirement was not satisfied or the obligation had not been complied with, and

(c) specify a time by which the penalty is required to be paid.

(7) The time specified under subsection (6)(c) must be at least 3 months after the date on which the penalty decision notice is given to the body.

(8) Where the Secretary of State decides to impose a penalty, the Secretary of State must publish the penalty decision notice and must do so in such manner as the Secretary of State considers appropriate for bringing the penalty to the attention of persons likely to be affected.

(9) The Secretary of State may rescind a penalty imposed on a body under section 1225D and, where doing so, must—

(a) give the body notice of the rescission, and

(b) publish the notice in the same manner as the penalty decision notice was published.

Textual Amendments

F1314 Ss. 1225-1225G substituted (2.7.2012) for s. 1225 by The Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 (S.I. 2012/1741), arts. 1(2), **4**

1225F Appeals against financial penalties

(1) A body on which a penalty is imposed may appeal to the court on one or more of the appeal grounds.

(2) The appeal grounds are—

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(a) that, before the giving of the notice under section 1225E(1), the requirement in respect of which the penalty was imposed was satisfied or the obligation in respect of which the penalty was imposed had been complied with;

(b) that, where the penalty was imposed in respect of a failure to comply with a direction under section 1225A, before the giving of the notice under section 1225B(6), the requirement in respect of which the direction was given was satisfied or the obligation in respect of which the direction was given had been complied with;

(c) that any of the requirements of section 1225E have not been complied with in relation to the imposition of the penalty and the interests of the body have been substantially prejudiced by the non-compliance;

(d) that the amount of the penalty is unreasonable;

(e) that it was unreasonable of the Secretary of State to require the penalty imposed to be paid by the time specified in the notice under section 1225E(5).

(3) An appeal under subsection (1) must be made within the period of 3 months beginning with the day on which the notice under section 1225E(5) is given to the body in respect of the penalty.

(4) On any such appeal, where the court considers it appropriate to do so in all the circumstances of the case and is satisfied of one or more of the appeal grounds, the court may—

(a) quash the penalty,

(b) substitute a penalty of such lesser amount as the court considers appropriate, or

(c) in the case of the appeal ground in subsection (2)(e), substitute a later time for the time specified in the notice under section 1225E(5).

(5) Where the court substitutes a penalty of a lesser amount, it may require the payment of interest on the substituted penalty, accruing from the time specified in the notice under section 1225E(5) or such later time as the court considers just and equitable.

(6) Where the court substitutes a later time for the time specified in the notice under section 1225E(5), it may require the payment of interest on the penalty, accruing from the substituted time or such later time as the court considers just and equitable.

(7) Where the court dismisses the appeal, it may require the payment of interest on the penalty, accruing from the time specified in the notice under section 1225E(5).

(8) Where the court requires the payment of interest under this section, the interest is payable at such rate as the court considers just and equitable.

(9) Except as provided by this section, the validity of a penalty is not to be questioned by any legal proceedings whatever.

(10) In this section " the court " means the High Court or, in Scotland, the Court of Session.

Textual Amendments

F1314 Ss. 1225-1225G substituted (2.7.2012) for s. 1225 by The Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 (S.I. 2012/1741), arts. 1(2), **4**

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1225G Recovery of financial penalties

(1) If the whole or any part of a penalty is not paid by the time by which it is required to be paid, the unpaid balance from time to time carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (c 110) (unless a different rate is specified by the court under section 1225F(8)).

(2) If an appeal is made under section 1225F in relation to a penalty, the penalty is not required to be paid until the appeal has been determined or withdrawn.

(3) Subsection (2) does not prevent the court from specifying that interest is to accrue from an earlier date under section 1225F.

(4) Where a penalty, or any portion of it, has not been paid by the time when it is required to be paid and—

(a) no appeal relating to the penalty has been made under section 1225F during the period within which such an appeal can be made, or

(b) an appeal has been made under that section and has been determined or withdrawn,

the Secretary of State may recover from the body, as a debt due to the Secretary of State, any of the penalty and any interest which has not been paid.**]**

Textual Amendments

F1314 Ss. 1225-1225G substituted (2.7.2012) for s. 1225 by The Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 (S.I. 2012/1741), arts. 1(2), **4**

CHAPTER 3

AUDITORS GENERAL

Eligibility for appointment

1226 Auditors General: eligibility for appointment as a statutory auditor

(1) In this Part "Auditor General" means—

(a) the Comptroller and Auditor General,

(b) the Auditor General for Scotland,

(c) the Auditor General for Wales, or

(d) the Comptroller and Auditor General for Northern Ireland.

(2) An Auditor General is eligible for appointment as a statutory auditor.

(3) Subsection (2) is subject to any suspension notice having effect under section 1234 (notices suspending eligibility for appointment as a statutory auditor).

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Conduct of audits

1227 Individuals responsible for audit work on behalf of Auditors General

An Auditor General must secure that each individual responsible for statutory audit work on behalf of that Auditor General is eligible for appointment as a statutory auditor by virtue of Chapter 2.

The Independent Supervisor

1228 Appointment of the Independent Supervisor

(1) The Secretary of State must appoint a body ("the Independent Supervisor") to discharge the function mentioned in section 1229(1) ("the supervision function").

(2) An appointment under this section must be made by order.

(3) The order has the effect of making the body appointed under subsection (1) designated under section 5 of the Freedom of Information Act 2000 (c. 36) (further powers to designate public authorities).

(4) A body may be appointed under this section only if it is a body corporate or an unincorporated association which appears to the Secretary of State—

(a) to be willing and able to discharge the supervision function, and

(b) to have arrangements in place relating to the discharge of that function which are such as to be likely to ensure that the conditions in subsection (5) are met.

(5) The conditions are—

(a) that the supervision function will be exercised effectively, and

(b) where the order is to contain any requirements or other provisions specified under subsection (6), that that function will be exercised in accordance with any such requirements or provisions.

(6) An order under this section may contain such requirements or other provisions relating to the exercise of the supervision function by the Independent Supervisor as appear to the Secretary of State to be appropriate.

(7) An order under this section is subject to negative resolution procedure.

Commencement Information

I454 S. 1228 wholly in force at 6.4.2008; s. 1228 not in force at Royal Assent, see s. 1300; s. 1228 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1228 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(u)** (with savings in arts. 7, 12, Sch. 4 paras. 37-42)

Supervision of Auditors General

1229 Supervision of Auditors General by the Independent Supervisor

(1) The Independent Supervisor must supervise the performance by each Auditor General of his functions as a statutory auditor.

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[F1315(2) The Independent Supervisor must discharge that duty by—

(a) establishing supervision arrangements itself, or

(b) entering into supervision arrangements with one or more **[**F1316recognised supervisory bodies**]**.

(2A) If the Independent Supervisor enters into supervision arrangements with one or more bodies, it must oversee the effective operation of those supervision arrangements.**]**

(3) For this purpose "supervision arrangements" are arrangements **[**F1317established by the Independent Supervisor or**]** entered into by the Independent Supervisor with a body, for the purposes of this section, in accordance with which **[**F1318the Independent Supervisor or**]** the body does F1319. . . the following—

(a) determines standards relating to professional integrity and independence which must be applied by an Auditor General in statutory audit work;

(b) determines technical standards which must be applied by an Auditor General in statutory audit work and the manner in which those standards are to be applied in practice;

(c) monitors the performance of statutory audits carried out by an Auditor General;

(d) investigates any matter arising from the performance by an Auditor General of a statutory audit;

(e) holds disciplinary hearings in respect of an Auditor General which appear to be desirable following the conclusion of such investigations;

(f) decides whether (and, if so, what) disciplinary action should be taken against an Auditor General to whom such a hearing related.

[F1320(3A) The requirements of **[**F1321paragraphs 9 to 10C and 12 to 16**]** of Schedule 10 (requirements for recognition of a supervisory body) apply in relation to supervision arrangements as they apply in relation to the rules, practices and arrangements of supervisory bodies.**]**

(4) The Independent Supervisor may enter into supervision arrangements with a body despite any relationship that may exist between the Independent Supervisor and that body.

(5) The Independent Supervisor must notify each Auditor General in writing of any supervision arrangements that it **[**F1322establishes or**]** enters into under this section.

[F1323(5A) The Independent Supervisor must, at least once in every calendar year, deliver to the Secretary of State a summary of the results of any inspections conducted for the purposes of subsection (3)(c).**]**

(6) Supervision arrangements within subsection (3)(f) may, in particular, provide for the payment by an Auditor General of a fine to any person**[**F1324or, in the case of the Auditor General for Wales, for payment by the Wales Audit Office of such a fine**]**.

(7) Any fine received by the Independent Supervisor under supervision arrangements is to be paid into the Consolidated Fund.

Textual Amendments

F1315 S. 1229(2)(2A) substituted for s. 1229(2) (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 9(2)**

Status: *Point in time view as at 31/12/2020.*
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F1316 Words in s. 1229(2)(b) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 36(2)**
F1317 Words in s. 1229(3) inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 9(3)(a)**
F1318 Words in s. 1229(3) inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 9(3)(b)**
F1319 Words in s. 1229(3) omitted (6.4.2008) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 9(3)(c)**
F1320 S. 1229(3A) inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 9(4)**
F1321 Words in s. 1229(3A) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 36(3)**
F1322 Words in s. 1229(5) inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 9(5)**
F1323 S. 1229(5A) inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 9(6)**
F1324 Words in s. 1229(6) inserted (E.W.) (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 81** (with Sch. 3 para. 3); S.I. 2013/1466, art. 3(1)

1230 Duties of Auditors General in relation to supervision arrangements

(1) Each Auditor General must—

(a) comply with any standards of the kind mentioned in subsection (3)(a) or (b) of section 1229 determined under the supervision arrangements,

(b) take such steps as may be reasonably required of that Auditor General to enable his performance of statutory audits to be monitored by means of inspections carried out under the supervision arrangements, and

(c) comply with any decision of the kind mentioned in subsection (3)(f) of that section made under the supervision arrangements.

[F1325(2) Each Auditor General must—

(a) if the Independent Supervisor has established supervision arrangements, pay to the Independent Supervisor;

(b) if the Independent Supervisor has entered into supervision arrangements with a body, pay to that body,

such proportion of the costs incurred by the Independent Supervisor or body for the purposes of the arrangements as the Independent Supervisor may notify to him in writing.**]**

(3) Expenditure under subsection (2) is—

(a) F1326 . . . . . .

(b) in the case of expenditure of the Comptroller and Auditor General for Northern Ireland, to be regarded as expenditure of the Northern Ireland Audit Office for the purposes of Article 6(1) of the Audit (Northern Ireland) Order 1987 (S.I. 1987/460 (N.I. 5)).

[F1327(c) in the case of expenditure of the Auditor General for Wales, to be regarded as expenditure of the Wales Audit Office for the purposes of section 20 of the Public Audit (Wales) Act 2013.**]**

(4) In this section "the supervision arrangements" means the arrangements **[**F1328established or**]** entered into under section 1229.

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Textual Amendments

F1325 S. 1230(2) substituted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 10(2)**

F1326 S. 1230(3)(a) omitted (1.4.2012) by virtue of Budget Responsibility and National Audit Act 2011 (c. 4), ss. 26, 29, **Sch. 5 para. 30**; S.I. 2011/2576, **art. 5**

F1327 S. 1230(3)(c) inserted (E.W.) (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 82** (with Sch. 3 para. 3); S.I. 2013/1466, art. 3(1)

F1328 Words in s. 1230(4) inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 10(3)**

Reporting requirement

1231 Reports by the Independent Supervisor

(1) The Independent Supervisor must, at least once in each calendar year, prepare a report on the discharge of its functions.

(2) The Independent Supervisor must give a copy of each report prepared under subsection (1) to—

(a) the Secretary of State;

(b) the First Minister in Scotland;

(c) the First Minister and the deputy First Minister in Northern Ireland;

[[F1329](d) The First Minister for Wales.**]**

(3) The Secretary of State must lay before each House of Parliament a copy of each report received by him under subsection (2)(a).

[[F1330](3A) The First Minister for Wales must lay before the National Assembly for Wales a copy of each report received by him under subsection (2)(d).**]**

(4) In relation to a calendar year during which an appointment of a body as the Independent Supervisor is made or revoked by an order under section 1228, this section applies with such modifications as may be specified in the order.

Textual Amendments

F1329 S. 1231(2)(d) substituted (6.11.2009) by The Government of Wales Act 2006 (Consequential Modifications, Transitional Provisions and Saving) Order 2009 (S.I. 2009/2958), **art. 12(2)**

F1330 S. 1231(3A) inserted (6.11.2009) by The Government of Wales Act 2006 (Consequential Modifications, Transitional Provisions and Saving) Order 2009 (S.I. 2009/2958), **art. 12(3)** (with art. 12(4))

Commencement Information

I455 S. 1231 wholly in force at 6.4.2008; s. 1231 not in force at Royal Assent, see s. 1300; s. 1231 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1231 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(u)** (with savings in arts. 7, 12, Sch. 4 paras. 37-42)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Information

1232 Matters to be notified to the Independent Supervisor

(1) The Independent Supervisor may require an Auditor General—

(a) to notify the Independent Supervisor immediately of the occurrence of such events as it may specify in writing and to give it such information in respect of those events as is so specified;

(b) to give the Independent Supervisor, at such times or in respect of such periods as it may specify in writing, such information as is so specified.

(2) The notices and information required to be given must be such as the Independent Supervisor may reasonably require for the exercise of the functions conferred on it by or by virtue of this Part.

(3) The Independent Supervisor may require information given under this section to be given in a specified form or verified in a specified manner.

(4) Any notice or information required to be given under this section must be given in writing unless the Independent Supervisor specifies or approves some other manner.

1233 The Independent Supervisor's power to call for information

(1) The Independent Supervisor may by notice in writing require an Auditor General to give it such information as it may reasonably require for the exercise of the functions conferred on it by or by virtue of this Part.

(2) The Independent Supervisor may require that any information which it requires under this section is to be given within such reasonable time and verified in such manner as it may specify.

Enforcement

1234 Suspension notices

(1) The Independent Supervisor may issue—

(a) a notice (a "suspension notice") suspending an Auditor General's eligibility for appointment as a statutory auditor in relation to all persons, or any specified person or persons, indefinitely or until a date specified in the notice;

(b) a notice amending or revoking a suspension notice previously issued to an Auditor General.

(2) In determining whether it is appropriate to issue a notice under subsection (1), the Independent Supervisor must have regard to—

(a) the Auditor General's performance of the obligations imposed on him by or by virtue of this Part, and

(b) the Auditor General's performance of his functions as a statutory auditor.

(3) A notice under subsection (1) must—

(a) be in writing, and

(b) state the date on which it takes effect (which must be after the period of three months beginning with the date on which it is issued).

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(4) Before issuing a notice under subsection (1), the Independent Supervisor must—

(a) give written notice of its intention to do so to the Auditor General, and

(b) publish the notice mentioned in paragraph (a) in such manner as it thinks appropriate for bringing it to the attention of any other persons who are likely to be affected.

(5) A notice under subsection (4) must—

(a) state the reasons for which the Independent Supervisor proposes to act, and

(b) give particulars of the rights conferred by subsection (6).

(6) A person within subsection (7) may, within the period of three months beginning with the date of service or publication of the notice under subsection (4) or such longer period as the Independent Supervisor may allow, make written representations to the Independent Supervisor and, if desired, oral representations to a person appointed for that purpose by the Independent Supervisor.

(7) The persons within this subsection are—

(a) the Auditor General, and

(b) any other person who appears to the Independent Supervisor to be affected.

(8) The Independent Supervisor must have regard to any representations made in accordance with subsection (6) in determining—

(a) whether to issue a notice under subsection (1), and

(b) the terms of any such notice.

(9) If in any case the Independent Supervisor considers it appropriate to do so in the public interest it may issue a notice under subsection (1), without regard to the restriction in subsection (3)(b), even if—

(a) no notice has been given or published under subsection (4), or

(b) the period of time for making representations in pursuance of such a notice has not expired.

(10) On issuing a notice under subsection (1), the Independent Supervisor must—

(a) give a copy of the notice to the Auditor General, and

(b) publish the notice in such manner as it thinks appropriate for bringing it to the attention of persons likely to be affected.

(11) In this section "specified" means specified in, or of a description specified in, the suspension notice in question.

1235 Effect of suspension notices

(1) An Auditor General must not act as a statutory auditor at any time when a suspension notice issued to him in respect of the audited person has effect.

(2) If at any time during an Auditor General's term of office as a statutory auditor a suspension notice issued to him in respect of the audited person takes effect, he must immediately—

(a) resign his office (with immediate effect), and

(b) give notice in writing to the audited person that he has resigned by reason of his becoming ineligible for appointment.

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(3) A suspension notice does not make an Auditor General ineligible for appointment as a statutory auditor for the purposes of section 1213 (effect of ineligibility: criminal offences).

1236 Compliance orders

(1) If at any time it appears to the Independent Supervisor that an Auditor General has failed to comply with an obligation imposed on him by or by virtue of this Part, the Independent Supervisor may make an application to the court under this section.

(2) If on an application under this section the court decides that the Auditor General has failed to comply with the obligation in question, it may order the Auditor General to take such steps as the court directs for securing that the obligation is complied with.

(3) In this section "the court" means the High Court or, in Scotland, the Court of Session.

Proceedings

1237 Proceedings involving the Independent Supervisor

(1) If the Independent Supervisor is an unincorporated association, any relevant proceedings may be brought by or against it in the name of any body corporate whose constitution provides for the establishment of the body.

(2) For this purpose "relevant proceedings" means proceedings brought in or in connection with the exercise of any function by the body as the Independent Supervisor.

(3) Where an appointment under section 1228 is revoked, the revoking order may make such provision as the Secretary of State thinks fit with respect to pending proceedings.

Commencement Information

I456 S. 1237 wholly in force at 6.4.2008; s. 1237 not in force at Royal Assent, see s. 1300; s. 1237 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1237 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(u)** (with savings in arts. 7, 12, Sch. 4 paras. 37-42)

Grants

1238 Grants to the Independent Supervisor

In section 16 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27) (grants to bodies concerned with accounting standards etc), after subsection (2)(k) insert—

"(ka) exercising functions of the Independent Supervisor appointed under Chapter 3 of Part 42 of the Companies Act 2006;".

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CHAPTER 4

THE REGISTER OF AUDITORS ETC

1239 The register of auditors

(1) The Secretary of State must make regulations requiring the keeping of a register of—

(a) the persons eligible for appointment as a statutory auditor, and

(b) third country auditors (see Chapter 5) who apply to be registered in the specified manner and in relation to whom specified requirements are met.

(2) The regulations must require each person's entry in the register to contain—

(a) his name and address,

(b) in the case of an individual eligible for appointment as a statutory auditor, the specified information relating to any firm on whose behalf he is responsible for statutory audit work,

(c) in the case of a firm eligible for appointment as a statutory auditor, the specified information relating to the individuals responsible for statutory audit work on its behalf,

(d) in the case of an individual or firm eligible for appointment as a statutory auditor by virtue of Chapter 2, the name of the relevant supervisory body, F1331 . . .

(e) in the case of a firm eligible for appointment as a statutory auditor by virtue of Chapter 2 F1332. . . , the information mentioned in subsection (3), **[**F1333 and

(f) in the case of a third country auditor which is a firm, the name and address of each person who is—

(i) an owner or shareholder of the firm, or

(ii) a member of the firm's administrative or management body.**]**

and may require each person's entry to contain other specified information.

(3) The information referred to in subsection (2)(e) is—

(a) in relation to a body corporate, except where paragraph (b) applies, the name and address of each person who is a director of the body or holds any shares in it;

(b) in relation to a limited liability partnership, the name and address of each member of the partnership;

(c) in relation to a corporation sole, the name and address of the individual for the time being holding the office by the name of which he is the corporation sole;

(d) in relation to a partnership, the name and address of each partner.

(4) The regulations may provide that different parts of the register are to be kept by different persons.

(5) The regulations may impose such obligations as the Secretary of State thinks fit on—

(a) recognised supervisory bodies,

(b) any body designated by order under section 1252 (delegation of Secretary of State's functions),

(c) persons eligible for appointment as a statutory auditor,

(d) third country auditors,

F1334(e) . . . . . .

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(f) the Independent Supervisor appointed under section 1228.

[F1335(g) the competent authority**]**

(6) The regulations may include—

(a) provision requiring that specified entries in the register be open to inspection at times and places specified or determined in accordance with the regulations;

(b) provision enabling a person to require a certified copy of specified entries in the register;

(c) provision authorising the charging of fees for inspection, or the provision of copies, of such reasonable amount as may be specified or determined in accordance with the regulations.

(7) The Secretary of State may direct in writing that the requirements imposed by the regulations F1336. . . , or such of those requirements as are specified in the direction, are not to apply, in whole or in part, in relation to a particular registered third country auditor or class of registered third country auditors.

(8) The obligations imposed by regulations under this section on such persons as are mentioned in subsection (5)(b) or (e) are enforceable on the application of the Secretary of State by injunction or, in Scotland, by an order under section 45 of the Court of Session Act 1988 (c. 36).

(9) In this section "specified" means specified by regulations under this section.

(10) Regulations under this section are subject to negative resolution procedure.

Textual Amendments

F1331 Word in s. 1239(2)(d) omitted (6.4.2008) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 30(2)**

F1332 Words in s. 1239(2)(e) omitted (6.4.2008) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 30(3)**

F1333 S. 1239(2)(f) and preceding word inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 30(4)**

F1334 S. 1239(5)(e) omitted (17.6.2016) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 37(2)**

F1335 S. 1239(5)(g) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 37(2)**

F1336 Words in s. 1239(7) omitted (6.4.2008) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 30(5)**

Modifications etc. (not altering text)

C1706 S. 1239: functions transferred (temp.) (1.3.2008) by The Statutory Auditors (Delegation of Functions etc) Order 2008 (S.I. 2008/496), **art. 3**

Commencement Information

I457 S. 1239 wholly in force at 6.4.2008; s. 1239 not in force at Royal Assent, see s. 1300; s. 1239 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1239 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(u)** (with savings in arts. 7, 12, Sch. 4 paras. 37-42)

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1240 Information to be made available to public

(1) The Secretary of State may make regulations requiring a person eligible for appointment as a statutory auditor, or a member of a specified class of such persons, to keep and make available to the public specified information, including information regarding—

(a) the person's ownership and governance,

(b) the person's internal controls with respect to the quality and independence of its audit work,

(c) the person's turnover, and

(d) the audited persons of whom the person has acted as statutory auditor.

(2) Regulations under this section may—

(a) impose such obligations as the Secretary of State thinks fit on persons eligible for appointment as a statutory auditor;

(b) require the information to be made available to the public in a specified manner.

(3) In this section "specified" means specified by regulations under this section.

(4) Regulations under this section are subject to negative resolution procedure.

Modifications etc. (not altering text)

C1707 S. 1240: functions transferred (temp.) (1.3.2008) by The Statutory Auditors (Delegation of Functions etc) Order 2008 (S.I. 2008/496), **art. 3**

Commencement Information

I458 S. 1240 wholly in force at 6.4.2008; s. 1240 not in force at Royal Assent, see s. 1300; s. 1240 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1240 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(u)** (with savings in arts. 7, 12, Sch. 4 paras. 37-42)

[F1337 CHAPTER 4A

EQUIVALENT THIRD COUNTRIES AND TRANSITIONAL THIRD COUNTRIES

Textual Amendments

F1337 Pt. 42 Chs. 4A, 4B inserted (13.11.2019) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2(a), **14** (as amended by S.I. 2019/1392, regs. 1(2), 3)

1240A. Power to approve third countries as equivalent or transitional third countries

(1) The Secretary of State may by regulations grant to a third country, or make provision for the grant to a third country of—

(a) approval as an equivalent third country,

(b) provisional approval, for a period of up to seven years, as an equivalent third country, or

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(c) transitional approval, for a period of up to seven years, as a transitional third country,

in relation to the comparability of the third country's audit regulatory regime to the audit regulatory regime of the United Kingdom.

(2) Regulations under subsection (1) may (among other things)—

(a) specify the procedure for assessing the audit regulatory regime of a third country;

(b) set out the considerations which must be taken into account, or may be taken into account, by the Secretary of State when determining—

(i) whether the third country has an audit regulatory regime comparable to that of the United Kingdom,

(ii) whether to grant approval, provisional approval or transitional approval, and

(iii) the period for which provisional approval or transitional approval should be granted;

(c) specify the procedure for the granting of approval, provisional approval or transitional approval;

(d) set out a list of third countries that have been granted approval, provisional approval or transitional approval;

(e) make provision for the amendment, suspension or withdrawal of approval, provisional approval or transitional approval.

(3) In this section, "audit regulatory regime" in relation to a country or territory, means the system of public oversight, quality assurance, investigations and sanctions for auditors in that country or territory.

(4) Regulations under this section are subject to negative resolution procedure.**]**

[F1337CHAPTER 4B

APPROVED THIRD COUNTRY COMPETENT AUTHORITIES

1240B. Power to approve third country competent authorities

(1) The Secretary of State may by regulations grant to a third country competent authority, or make provision for the grant to a third country competent authority of—

(a) approval as an approved third country competent authority, or

(b) provisional approval, for a period of up to seven years, as an approved third country competent authority,

in relation to the exchange of audit working papers and investigation reports.

(2) Regulations under subsection (1) may (among other things)—

(a) specify the procedure for assessing the adequacy of the third country competent authority, in relation to the authority's ability to co-operate with the competent authority on the exchange of audit working papers and investigation reports;

(b) set out the considerations which must be taken into account, or may be taken into account, by the Secretary of State when determining—

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(i) whether to grant approval or provisional approval, and

(ii) in relation to the granting of provisional approval, the period of the approval;

(c) specify the procedure for the granting of an approval or a provisional approval;

(d) set out a list of third country competent authorities that have been granted an approval or a provisional approval;

(e) make provision for the amendment, suspension or withdrawal of an approval or a provisional approval.

(3) Regulations under this section are subject to negative resolution procedure.**]**

CHAPTER 5

REGISTERED THIRD COUNTRY AUDITORS

Introductory

1241 [F1338Meaning of "registered third country auditor" and "[F1339UK-traded third country company]"]

(1) In this Part—

F1340 . . . . . .

"registered third country auditor" means a third country auditor who is entered in the register kept in accordance with regulations under section 1239(1).

(2) **[**F1341 In this Part "**[**F1342UK-traded third country company**]**" means a body corporate— **]**

(a) which is incorporated or formed under the law of **[**F1343a third country**]** ,

(b) whose transferable securities are admitted to trading on a **[**F1344UK regulated market**]**F1345..., and

(c) which has not been excluded, or is not of a description of bodies corporate which has been excluded, from this definition by an order made by the Secretary of State.

F1346(3) . . . . . .

(4) An order under this section is subject to negative resolution procedure.

Textual Amendments

F1338 S. 1241 heading substituted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 31(2)**

F1339 Words in s. 1241 heading substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **15(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1340 S. 1241(1): definition omitted (6.4.2008) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 31(3)**

F1341 Words in s. 1241(2) substituted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 31(4)(a)**

F1342 Words in s. 1241(2) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **15(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

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F1343 Words in s. 1241(2)(a) substituted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 31(4)(b)**

F1344 Words in s. 1241(2)(b) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **15(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F1345 Words in s. 1241(2)(b) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **15(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F1346 S. 1241(3) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **15(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I459 S. 1241 wholly in force at 6.4.2008; s. 1241 not in force at Royal Assent, see s. 1300; s. 1241 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1241 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(u)** (with savings in arts. 7, 12, Sch. 4 paras. 37-42)

Duties

1242 Duties of registered third country auditors

(1) A registered third country auditor **[**F1347who audits the accounts of a **[**F1348UK-traded third country company**]]** must participate in—

(a) arrangements within paragraph 1 of Schedule 12 (arrangements for independent monitoring of audits F1349. . .), and

(b) arrangements within paragraph 2 of that Schedule (arrangements for independent investigation for disciplinary purposes F1350...).

(2) A registered third country auditor must—

(a) take such steps as may be reasonably required of it to enable its performance of **[**F1351audits of accounts of **[**F1352UK-traded third country companies**]]** to be monitored by means of inspections carried out under the arrangements mentioned in subsection (1)(a), and

(b) comply with any decision as to disciplinary action to be taken against it made under the arrangements mentioned in subsection (1)(b).

(3) Schedule 12 makes further provision with respect to the arrangements in which registered third country auditors are required to participate.

(4) The Secretary of State may direct in writing that subsections (1) to (3) are not to apply, in whole or in part, in relation to

[F1353(a)**]** a particular registered third country auditor or class of registered third country auditors.

[F1354(b) audits of the accounts of a particular **[**F1355UK-traded third country company**]** or class of **[**F1356UK-traded third country companies**]**;

(c) audits by a particular registered third country auditor or class of registered third country auditors of the accounts of a particular **[**F1357UK-traded third country company**]** or class of **[**F1358UK-traded third country companies**]**.**]**

Status: *Point in time view as at 31/12/2020.*
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Textual Amendments

F1347 Words in s. 1242(1) inserted (29.6.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 32(2)(a)** (as amended by S.I. 2008/499, reg. 2)

F1348 Words in s. 1242(1) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **16(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1349 Words in s. 1242(1)(a) omitted (29.6.2008) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 32(2)(b)** (as amended by S.I. 2008/499, reg. 2)

F1350 Words in s. 1242(1)(b) omitted (1.10.2013) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2013 (S.I. 2013/1672), regs. 3, **14**

F1351 Words in s. 1242(2)(a) substituted (29.6.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 32(3)** (as amended by S.I. 2008/499, reg. 2)

F1352 Words in s. 1242(2)(a) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **16(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F1353 Letter in s. 1242(4) inserted (1.9.2011 with application in accordance with reg. 1(5)) by The Statutory Auditors and Third Country Auditors (Amendment) Regulations 2011 (S.I. 2011/1856), **reg. 4(a)**

F1354 S. 1242(4)(b)(c) inserted (1.9.2011with application in accordance with reg. 1(5)) by The Statutory Auditors and Third Country Auditors (Amendment) Regulations 2011 (S.I. 2011/1856), **reg. 4(b)**

F1355 Words in s. 1242(4)(b) substituted (31.12.2020) by S.I. 2019/177, **reg. 16(c)(i)** (as inserted by The Statutory Auditors, Third Country Auditors and International Accounting Standards (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1392), regs. 1(2), **5**); 2020 c. 1, **Sch. 5 para. 1(1)**

F1356 Words in s. 1242(4)(b) substituted (31.12.2020) by S.I. 2019/177, **reg. 16(c)(ii)** (as inserted by The Statutory Auditors, Third Country Auditors and International Accounting Standards (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1392), regs. 1(2), **5**); 2020 c. 1, **Sch. 5 para. 1(1)**

F1357 Words in s. 1242(4)(c) substituted (31.12.2020) by S.I. 2019/177, **reg. 16(d)(i)** (as inserted by The Statutory Auditors, Third Country Auditors and International Accounting Standards (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1392), regs. 1(2), **5**); 2020 c. 1, **Sch. 5 para. 1(1)**

F1358 Words in s. 1242(4)(c) substituted (31.12.2020) by S.I. 2019/177, **reg. 16(d)(ii)** (as inserted by The Statutory Auditors, Third Country Auditors and International Accounting Standards (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1392), regs. 1(2), **5**); 2020 c. 1, **Sch. 5 para. 1(1)**

Information

1243 Matters to be notified to the Secretary of State

(1) The Secretary of State may require a registered third country auditor—

(a) to notify him immediately of the occurrence of such events as he may specify in writing and to give him such information in respect of those events as is so specified;

(b) to give him, at such times or in respect of such periods as he may specify in writing, such information as is so specified.

(2) The notices and information required to be given must be such as the Secretary of State may reasonably require for the exercise of his functions under this Part.

(3) The Secretary of State may require information given under this section to be given in a specified form or verified in a specified manner.

(4) Any notice or information required to be given under this section must be given in writing unless the Secretary of State specifies or approves some other manner.

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1244 The Secretary of State's power to call for information

(1) The Secretary of State may by notice in writing require a registered third country auditor to give him such information as he may reasonably require for the exercise of his functions under this Part.

(2) The Secretary of State may require that any information which he requires under this section is to be given within such reasonable time and verified in such manner as he may specify.

Enforcement

1245 Compliance orders

(1) If at any time it appears to the Secretary of State that a registered third country auditor has failed to comply with an obligation imposed on him by or by virtue of this Part, the Secretary of State may make an application to the court under this section.

(2) If on an application under this section the court decides that the auditor has failed to comply with the obligation in question, it may order the auditor to take such steps as the court directs for securing that the obligation is complied with.

(3) In this section "the court" means the High Court or, in Scotland, the Court of Session.

1246 Removal of third country auditors from the register of auditors

(1) The Secretary of State may, by regulations, confer on the person keeping the register in accordance with regulations under section 1239(1) power to remove a third country auditor from the register.

(2) Regulations under this section must require the person keeping the register, in determining whether to remove a third country auditor from the register, to have regard to the auditor's compliance with obligations imposed on him by or by virtue of this Part.

(3) Where provision is made under section 1239(4) (different parts of the register to be kept by different persons), references in this section to the person keeping the register are to the person keeping that part of the register which relates to third country auditors.

(4) Regulations under this section are subject to negative resolution procedure.

Commencement Information

I460 S. 1246 wholly in force at 6.4.2008; s. 1246 not in force at Royal Assent, see s. 1300; s. 1246 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1246 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(u)** (with savings in arts. 7, 12, Sch. 4 paras. 37-42)

1247 Grants to bodies concerned with arrangements under Schedule 12

In section 16 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27) (grants to bodies concerned with accounting standards etc), after subsection (2)(ka) (inserted by section 1238) insert—

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"(kb) establishing, maintaining or carrying out arrangements within paragraph 1 or 2 of Schedule 12 to the Companies Act 2006;".

CHAPTER 6

SUPPLEMENTARY AND GENERAL

Power to require second company audit

1248 Secretary of State's power to require second audit of a company

(1) This section applies where a person appointed as statutory auditor of a company was not an appropriate person for any part of the period during which the audit was conducted.

(2) The Secretary of State may direct the company concerned to retain an appropriate person—

(a) to conduct a second audit of the relevant accounts, or

(b) to review the first audit and to report (giving his reasons) whether a second audit is needed.

(3) For the purposes of subsections (1) and (2) a person is "appropriate" if he—

(a) is eligible for appointment as a statutory auditor or, if the person is an Auditor General, for appointment as statutory auditor of the company, and

(b) is not prohibited by section 1214(1) (independence requirement) from acting as statutory auditor of the company.

(4) The Secretary of State must send a copy of a direction under subsection (2) to the registrar of companies.

(5) The company is guilty of an offence if—

(a) it fails to comply with a direction under subsection (2) within the period of 21 days beginning with the date on which it is given, or

(b) it has been convicted of a previous offence under this subsection and the failure to comply with the direction which led to the conviction continues after the conviction.

(6) The company must—

(a) send a copy of a report under subsection (2)(b) to the registrar of companies, and

(b) if the report states that a second audit is needed, take such steps as are necessary for the carrying out of that audit.

(7) The company is guilty of an offence if—

(a) it fails to send a copy of a report under subsection (2)(b) to the registrar within the period of 21 days beginning with the date on which it receives it,

(b) in a case within subsection (6)(b), it fails to take the steps mentioned immediately it receives the report, or

(c) it has been convicted of a previous offence under this subsection and the failure to send a copy of the report, or take the steps, which led to the conviction continues after the conviction.

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(8) A company guilty of an offence under this section is liable on summary conviction—

(a) in a case within subsection (5)(a) or (7)(a) or (b), to a fine not exceeding level 5 on the standard scale, and

(b) in a case within subsection (5)(b) or (7)(c), to a fine not exceeding **[**F1359one-tenth of level 5 on the standard scale**][**F1359one-tenth of the greater of £5,000 or level 4 on the standard scale**]** for each day on which the failure continues.

(9) In this section "registrar of companies" has the meaning given by section 1060.

Textual Amendments

F1359 Words in s. 1248(8)(b) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 3 para. 9(26)** (with reg. 5(1))

Modifications etc. (not altering text)

C1708 S. 1248 applied (with modifications) by 1986 c. 53, Sch. 11 para. 3DA(3) (as inserted (with effect in accordance with reg. 2(1) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 3** (with reg. 2(6)(7)))

1249 Supplementary provision about second audits

(1) If a person accepts an appointment, or continues to act, as statutory auditor of a company at a time when he knows he is not an appropriate person, the company may recover from him any costs incurred by it in complying with the requirements of section 1248.

For this purpose "appropriate" is to be construed in accordance with subsection (3) of that section.

(2) Where a second audit is carried out under section 1248, any statutory or other provision applying in relation to the first audit applies also, in so far as practicable, in relation to the second audit.

(3) A direction under section 1248(2) is, on the application of the Secretary of State, enforceable by injunction or, in Scotland, by an order under section 45 of the Court of Session Act 1988 (c. 36).

Modifications etc. (not altering text)

C1709 S. 1249 applied (with modifications) by 1986 c. 53, Sch. 11 para. 3DA(3) (as inserted (with effect in accordance with reg. 2(1) of the amending S.I.) by The Statutory Auditors Regulations 2017 (S.I. 2017/1164), reg. 1(2)(3), **Sch. 1 para. 3** (with reg. 2(6)(7)))

False and misleading statements

1250 Misleading, false and deceptive statements

(1) A person is guilty of an offence if—

(a) for the purposes of or in connection with any application under this Part, or

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(b) in purported compliance with any requirement imposed on him by or by virtue of this Part,

he knowingly or recklessly furnishes information which is misleading, false or deceptive in a material particular.

(2) It is an offence for a person whose name does not appear on the register of auditors kept under regulations under section 1239 in an entry made under subsection (1)(a) of that section to describe himself as a registered auditor or so to hold himself out as to indicate, or be reasonably understood to indicate, that he is a registered auditor.

(3) It is an offence for a person whose name does not appear on the register of auditors kept under regulations under that section in an entry made under subsection (1)(b) of that section to describe himself as a registered third country auditor or so to hold himself out as to indicate, or be reasonably understood to indicate, that he is a registered third country auditor.

(4) It is an offence for a body which is not a recognised supervisory body or a recognised qualifying body to describe itself as so recognised or so to describe itself or hold itself out as to indicate, or be reasonably understood to indicate, that it is so recognised.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both),

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

In relation to an offence committed before the commencement of **[**F1360paragraph 24(2) of Schedule 22 to the Sentencing Act 2020**]**, for "twelve months" in paragraph (b)(i) substitute "six months".

(6) Subject to subsection (7), a person guilty of an offence under subsection (2), (3) or (4) is liable on summary conviction—

(a) in England and Wales, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the standard scale (or both),

(b) in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale (or both).

In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, for "51 weeks" in paragraph (a) substitute "six months".

(7) Where a contravention of subsection (2), (3) or (4) involves a public display of the offending description, the maximum fine that may be imposed is an amount equal to level 5 on the standard scale multiplied by the number of days for which the display has continued.

(8) It is a defence for a person charged with an offence under subsection (2), (3) or (4) to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

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Textual Amendments

F1360 Words in s. 1250(5) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 443(1)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

Fees

1251 Fees

(1) An applicant for a recognition order under this Part must pay such fee in respect of his application as the Secretary of State may by regulations prescribe; and no application is to be regarded as duly made unless this subsection is complied with.

(2) The Secretary of State may by regulations prescribe periodical fees to be paid by—

(a) every recognised supervisory body,

(b) every recognised qualifying body,

(c) every Auditor General, and

(d) every registered third country auditor.

(3) Fees received by the Secretary of State by virtue of this Part are to be paid into the Consolidated Fund.

(4) Regulations under this section are subject to negative resolution procedure.

Commencement Information

I461 S. 1251 wholly in force at 6.4.2008; s. 1251 not in force at Royal Assent, see s. 1300; s. 1251 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1251 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(u)** (with savings in arts. 7, 12, Sch. 4 paras. 37-42)

[F1361 Duty of Secretary of State to report on inspections

Textual Amendments

F1361 S. 1251A and cross-heading inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 11**

1251A Duty of the Secretary of State to report on inspections

The Secretary of State must, at least once in every calendar year, publish a report containing a summary of the results of inspections that are delivered to him—

(a) by the Independent Supervisor under section 1229(5A);

(b) by a recognised supervisory body under **[**F1362paragraph 13(12)**]** of Schedule 10.**]**

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Textual Amendments

F1362 Words in s. 1251A(b) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 38(2)**

Delegation of Secretary of State's functions

1252 Delegation of the Secretary of State's functions

(1) The Secretary of State may make an order under this section (a "delegation order") for the purpose of enabling functions of the Secretary of State under this Part to be exercised by a body designated by the order.

(2) The body designated by a delegation order may be either—

(a) a body corporate which is established by the order, or

(b) subject to section 1253, a body **[**F1363(including the competent authority, and whether**]** a body corporate or an unincorporated association) which is already in existence ("an existing body").

(3) A delegation order has the effect of making the body designated by the order designated under section 5 of the Freedom of Information Act 2000 (c. 36) (further powers to designate public authorities).

(4) A delegation order has the effect of transferring to the body designated by it all functions of the Secretary of State under this Part—

(a) subject to such exceptions and reservations as may be specified in the order, and

(b) except—

(i) his functions in relation to the body itself, and

(ii) his functions under section 1228 (appointment of Independent Supervisor).

(5) A delegation order may confer on the body designated by it such other functions supplementary or incidental to those transferred as appear to the Secretary of State to be appropriate.

(6) Any transfer of functions under the following provisions must be subject to the reservation that the functions remain exercisable concurrently by the Secretary of State—

(a) section 1224 (power to call for information from recognised bodies etc);

(b) section 1244 (power to call for information from registered third country auditors);

(c) section 1254 (directions to comply with international obligations).

(7) Any transfer of—

(a) the function of refusing to make a declaration under section 1221(1) (approval of **[**F1364third country**]** qualifications) on the grounds referred to in section 1221(4) (lack of comparable treatment), or

(b) the function of withdrawing such a declaration under section 1221(7) on those grounds,

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must be subject to the reservation that the function is exercisable only with the consent of the Secretary of State.

(8) A delegation order may be amended or, if it appears to the Secretary of State that it is no longer in the public interest that the order should remain in force, revoked by a further order under this section.

(9) Where functions are transferred or resumed, the Secretary of State may by order confer or, as the case may be, take away such other functions supplementary or incidental to those transferred or resumed as appear to him to be appropriate.

(10) Where a delegation order is made, Schedule 13 has effect with respect to—

(a) the status of the body designated by the order in exercising functions of the Secretary of State under this Part,

(b) the constitution and proceedings of the body where it is established by the order,

(c) the exercise by the body of certain functions transferred to it, and

(d) other supplementary matters.

(11) An order under this section which has the effect of transferring or resuming any functions is subject to affirmative resolution procedure.

(12) Any other order under this section is subject to negative resolution procedure.

Textual Amendments

F1363 Words in s. 1252(2)(b) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 39(2)**

F1364 Words in s. 1252(7)(a) substituted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 12**

Commencement Information

I462 S. 1252 wholly in force at 6.4.2008; s. 1252 not in force at Royal Assent, see s. 1300; s. 1252 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1252 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(u)** (with savings in arts. 7, 12, Sch. 4 paras. 37-42)

1253 Delegation of functions to an existing body

(1) The Secretary of State's power to make a delegation order under section 1252 which designates an existing body is exercisable in accordance with this section.

(2) The Secretary of State may make such a delegation order if it appears to him that—

(a) the body is able and willing to exercise the functions that would be transferred by the order, and

(b) the body has arrangements in place relating to the exercise of those functions which are such as to be likely to ensure that the conditions in subsection (3) are met.

(3) The conditions are—

(a) that the functions in question will be exercised effectively, and

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(b) where the delegation order is to contain any requirements or other provisions specified under subsection (4), that those functions will be exercised in accordance with any such requirements or provisions.

(4) The delegation order may contain such requirements or other provision relating to the exercise of the functions by the designated body as appear to the Secretary of State to be appropriate.

(5) An existing body—

(a) may be designated by a delegation order under section 1252, and

(b) may accordingly exercise functions of the Secretary of State in pursuance of the order,

despite any involvement of the body in the exercise of any functions under arrangements within [F1365]... paragraph 1 or 2 of Schedule 12.

Textual Amendments

F1365 Words in s. 1253(5) omitted (17.6.2016) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 40(2)**

Commencement Information

I463 S. 1253 wholly in force at 6.4.2008; s. 1253 not in force at Royal Assent, see s. 1300; s. 1253 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1253 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(u)** (with savings in arts. 7, 12, Sch. 4 paras. 37-42)

[F1366 Cooperation with foreign competent authorities

Textual Amendments

F1366 Ss. 1253A-1253C and cross-heading inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 14(1)** (with reg. 14(2))

1253A Requests to foreign competent authorities

The Secretary of State may request from [F1367]... a third country competent authority such assistance, information or investigation as he may reasonably require in connection with the exercise of his functions under this Part.

Textual Amendments

F1367 Words in s. 1253A omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **17**; 2020 c. 1, Sch. 5 para. 1(1)

1253B Requests from [F1368approved third country competent authorities]

[F1369(1) The Secretary of State must take all necessary steps to—

(a) ensure that an investigation is carried out, or

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(b) provide any other assistance or information,

if requested to do so by an **[**F1370approved third country competent authority**]**F1371....**]**

[F1372(1A) Where the request includes a request for the transfer of audit working papers and investigation reports, the Secretary of State must act in accordance with section 1253D.**]**

(2) Within 28 days following the date on which he receives the request, the Secretary of State must—

(a) provide the assistance or information required by **[**F1373the requesting authority**]** under subsection (1)(b), or

(b) notify **[**F1374the requesting authority**]** of the reasons why he has not done so.

(3) But the Secretary of State need not take steps to comply with a request under subsection (1) if—

(a) he considers that complying with the request may prejudice the sovereignty, security or public order of the United Kingdom;

(b) legal proceedings have been brought in the United Kingdom (whether continuing or not) in relation to the persons and matters to which the request relates; or

(c) disciplinary action has been taken by a recognised supervisory body in relation to the persons and matters to which the request relates.

F1375(4) . . . . . .

Textual Amendments

F1368 Words in s. 1253B heading substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **18(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1369 S. 1253B(1) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 41(2)**

F1370 Words in s. 1253B(1) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **18(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F1371 Words in s. 1253B(1) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **18(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F1372 S. 1253B(1A) inserted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **18(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F1373 Words in s. 1253B(2)(a) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 41(3)(a)**

F1374 Words in s. 1253B(2)(b) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 41(3)(b)**

F1375 S. 1253B(4) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **18(d)**; 2020 c. 1, Sch. 5 para. 1(1)

1253C Notification to [F1376approved third country] competent authorities F1377...

[F1378(1) If the Secretary of State receives notice from a recognised supervisory body under section 1223A(1) (notification of matters relevant to **[**F1379approved third country competent authorities**]**) that—

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(a) a person has become eligible for appointment as a statutory auditor, or

(b) a person's eligibility for appointment as a statutory auditor has been withdrawn,

the Secretary of State must notify the relevant **[**F1380approved third country competent authority**].]**

(2) In subsection (1) "**[**F1381approved third country competent authority**]**" means the **[**F1381approved third country competent authority**]** which has approved the person concerned F1382... to carry out audits of annual accounts or consolidated accounts F1383....

(3) The notification under subsection (1) must include the name of the person concerned and **[**F1384, in a case where a person's eligibility for appointment as a statutory auditor has been withdrawn, the reasons for the withdrawal**]**.

(4) The Secretary of State must notify the relevant **[**F1385approved third country competent authority**]** if he has reasonable grounds for suspecting that—

(a) a person has contravened the law of the United Kingdom, or any **[**F1386equivalent third country or transitional third country, relating to audit**]**, and

(b) the act or omission constituting that contravention took place on the territory of **[**F1387an equivalent third country or transitional third country**]**.

(5) In subsection (4) "**[**F1388approved third country competent authority**]**" means the **[**F1388approved third country competent authority**]** for the **[**F1389country or territory**]** in which the suspected contravention took place.

(6) The notification under subsection (4) must include the name of the person concerned and the grounds for the Secretary of State's suspicion.**]**

Textual Amendments

F1376 Words in s. 1253C heading inserted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **19(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1377 Words in s. 1253C heading omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **19(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1378 S. 1253C(1) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 42(2)**

F1379 Words in s. 1253C(1) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **19(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F1380 Words in s. 1253C(1) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **19(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F1381 Words in s. 1253C(2) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **19(c)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F1382 Words in s. 1253C(2) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **19(c)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

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F1383 Words in s. 1253C(2) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **19(c)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)

F1384 Words in s. 1253C(3) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 42(3)**

F1385 Words in s. 1253C(4) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **19(d)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F1386 Words in s. 1253C(4)(a) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **19(d)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F1387 Words in s. 1253C(4)(b) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **19(d)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)

F1388 Words in s. 1253C(5) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **19(e)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F1389 Words in s. 1253C(5) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **19(e)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

[F1390 Transfer of papers to third countries

Textual Amendments

F1390 Ss. 1253D-1253F and cross-heading inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 15(1)** (with reg. 15(2) (as amended by S.I. 2008/499), reg. 2(4)))

[F1391 1253D Restriction on transfer of audit working papers to third countries

(1) **[**F1392 Audit working papers and investigation reports**]** must not be transferred to a third country competent authority **[**F1393 unless the third country competent authority is an approved third country competent authority and the transfers are made**]** in accordance with—

(a) section 1253DA (transfer by Secretary of State),

(b) section 1253DB (transfer by statutory auditor with approval of Secretary of State), or

(c) section 1253DC (transfer by statutory auditor for purposes of investigation of auditor).

F1394 (2) . . . . . .

(3) Nothing in the sections referred to in subsection (1) authorises the making of a disclosure in contravention of **[**F1395 the data protection legislation**]**.**]**

Textual Amendments

F1391 Ss. 1253D-1253DE substituted for s. 1253D (15.11.2010) by The Companies Act 2006 (Transfer of Audit Working Papers to Third Countries) Regulations 2010 (S.I. 2010/2537), regs. 1(2), **2**

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F1392 Words in s. 1253D(1) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 43(2)** (with reg. 1(2)(b))
F1393 Words in s. 1253D(1) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **20(a)**; 2020 c. 1, Sch. 5 para. 1(1)
F1394 S. 1253D(2) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **20(b)**; 2020 c. 1, Sch. 5 para. 1(1)
F1395 Words in s. 1253D(3) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 126** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

[F1396 1253DA Transfer by Secretary of State

(1) The Secretary of State may transfer **[**F1397 audit working papers and investigation reports**]** to an approved third country competent authority if the following conditions are met (but see also section 1253DD).

(2) The first condition is that the authority has made a request to the Secretary of State for the transfer of the **[**F1397 audit working papers and investigation reports**]**.

(3) The second condition is that the **[**F1397 audit working papers and investigation reports**]** relate to audits of companies that—

(a) have issued securities in the third country in which the authority is established, or

(b) form part of a group issuing statutory consolidated accounts in that third country.

(4) The third condition is that the authority has entered into arrangements with the Secretary of State in accordance with section 1253E.

Textual Amendments

F1396 Ss. 1253D-1253DE substituted for s. 1253D (15.11.2010) by The Companies Act 2006 (Transfer of Audit Working Papers to Third Countries) Regulations 2010 (S.I. 2010/2537), regs. 1(2), **2**
F1397 Words in s. 1253DA substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 44(2)** (with reg. 1(2)(b))

1253DB Transfer by statutory auditor with approval of Secretary of State

(1) A statutory auditor may transfer **[**F1398 audit working papers and investigation reports**]** to an approved third country competent authority if the transfer is made—

(a) with the prior approval of the Secretary of State, and

(b) in accordance with rules of a recognised supervisory body meeting the requirements of paragraph 16AA of Schedule 10.

(2) The Secretary of State must not approve a transfer of **[**F1398 audit working papers and investigation reports**]** to an approved third country competent authority for the purposes of this section unless the following conditions are met (see also section 1253DD).

(3) The first condition is that the authority has made a request to the Secretary of State for the transfer of the **[**F1398 audit working papers and investigation reports**]**.

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(4) The second condition is that the **[**F1398audit working papers and investigation reports**]** relate to audits of companies that—

(a) have issued securities in the third country in which the authority is established, or

(b) form part of a group issuing statutory consolidated accounts in that third country.

(5) The third condition is that the authority has entered into arrangements with the Secretary of State in accordance with section 1253E.

Textual Amendments

F1396 Ss. 1253D-1253DE substituted for s. 1253D (15.11.2010) by The Companies Act 2006 (Transfer of Audit Working Papers to Third Countries) Regulations 2010 (S.I. 2010/2537), regs. 1(2), **2**

F1398 Words in s. 1253DB substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 45(2)** (with reg. 1(2)(b))

1253DC Transfer by statutory auditor for purposes of investigation of auditor

A statutory auditor may transfer **[**F1399audit working papers and investigation reports**]** to a third country competent authority if the transfer is made—

(a) for the purposes of an investigation of an auditor or audit firm, and

(b) in accordance with rules of a recognised supervisory body meeting the requirements of paragraph 16AB of Schedule 10.

Textual Amendments

F1396 Ss. 1253D-1253DE substituted for s. 1253D (15.11.2010) by The Companies Act 2006 (Transfer of Audit Working Papers to Third Countries) Regulations 2010 (S.I. 2010/2537), regs. 1(2), **2**

F1399 Words in s. 1253DC substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 46** (with reg. 1(2)(b))

1253DD Agreement of **[**F1400third country competent authority**]**

(1) This section applies where—

(a) an approved third country competent authority makes a request to the Secretary of State for the transfer of **[**F1401audit working papers and investigation reports**]** which relate to the audit of the consolidated accounts of a group, and

(b) the **[**F1401audit working papers and investigation reports**]** that are the subject of the request—

(i) have been created by the auditor of a subsidiary that is located in **[**F1402an equivalent third country or transitional third country**]** in relation to the audit of that subsidiary, and

(ii) are in the possession of a statutory auditor.

(2) In the case of a transfer by the Secretary of State under section 1253DA, the transfer must not take place unless the **[**F1403third country competent authority**]** responsible for the auditor of the subsidiary has given its express agreement to the transfer.

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(3) In the case of a transfer by a statutory auditor under section 1253DB, the Secretary of State must not approve the transfer unless the **[**F1404third country competent authority**]** responsible for the auditor of the subsidiary has given its express agreement to the transfer.

Textual Amendments

F1396 Ss. 1253D-1253DE substituted for s. 1253D (15.11.2010) by The Companies Act 2006 (Transfer of Audit Working Papers to Third Countries) Regulations 2010 (S.I. 2010/2537), regs. 1(2), **2**

F1400 Words in s. 1253DD heading substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **21(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1401 Words in s. 1253DD substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 47(1)** (with reg. 1(2)(b))

F1402 Words in s. 1253DD(1)(b)(i) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **21(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F1403 Words in s. 1253DD(2) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **21(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F1404 Words in s. 1253DD(3) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **21(c)**; 2020 c. 1, Sch. 5 para. 1(1)

1253DE Transfer by means of inspection

(1) This section applies in the case of a transfer of **[**F1405audit working papers and investigation reports**]** if—

(a) it is a transfer to an approved third country competent authority F1406...,

(b) it is a transfer under section 1253DA or 1253DB, and

(c) it is to take place by means of an inspection in the United Kingdom by the authority.

(2) The Secretary of State must participate in the inspection.

(3) The inspection must be under the leadership of the Secretary of State unless the Secretary of State otherwise permits.**]**

Textual Amendments

F1396 Ss. 1253D-1253DE substituted for s. 1253D (15.11.2010) by The Companies Act 2006 (Transfer of Audit Working Papers to Third Countries) Regulations 2010 (S.I. 2010/2537), regs. 1(2), **2**

F1405 Words in s. 1253DE(1) substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 48(2)** (with reg. 1(2)(b))

F1406 Words in s. 1253DE(1)(a) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **22**; 2020 c. 1, Sch. 5 para. 1(1)

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[F1407 1253M Working arrangements for transfer of papers

(1) The Secretary of State may enter into arrangements with a third country competent authority relating to the transfer of **[**F1408audit working papers and investigation reports**]**—

(a) from the third country competent authority or a third country auditor regulated by that authority to the Secretary of State, and

(b) from the Secretary of State or a statutory auditor to the third country competent authority.

(2) The arrangements must provide that a request by the Secretary of State or the third country competent authority for a transfer mentioned in subsection (1) must be accompanied by a statement explaining the reasons for the request.

(3) The arrangements must—

(a) provide that the Secretary of State may not use **[**F1408audit working papers and investigation reports**]** obtained from the third country competent authority or a third country auditor regulated by that authority except in connection with one or more of the functions mentioned in subsection (4), and

(b) include comparable provision in relation to **[**F1408audit working papers and investigation reports**]** obtained by the third country competent authority from the Secretary of State or a statutory auditor.

(4) Those functions are—

(a) quality assurance functions which meet requirements equivalent to those of **[**F1409regulation 9 of the Statutory Auditors and Third Country Auditors Regulations 2016**]**;

(b) investigation or disciplinary functions which meet requirements equivalent to those of **[**F1410regulations 5 to 8 and 10 of the Statutory Auditors and Third Country Auditors Regulations 2016**]**;

(c) public oversight functions which meet requirements equivalent to those of **[**F1411regulation 3 of the Statutory Auditors and Third Country Auditors Regulations 2016**]**.

(5) The arrangements must—

(a) provide that the Secretary of State, a person exercising the functions of the Secretary of State and persons employed or formerly employed in discharging those functions must be subject to obligations of confidentiality as to personal data, professional secrets and sensitive commercial information contained in **[**F1408audit working papers and investigation reports**]** transferred to the Secretary of State, F1412...

(b) provide that the third country competent authority and persons involved in exercising its functions are subject to comparable obligations in relation to **[**F1408audit working papers and investigation reports**]** transferred to the authority **[**F1413and

(c) ensure that the protection of the commercial interests of any audited person, including its industrial and intellectual property, is not undermined.**]**

(6) The arrangements must—

(a) provide that the Secretary of State may refuse, or direct a statutory auditor to refuse, a request from the third country competent authority for a transfer of **[**F1408audit working papers and investigation reports**]** in a case mentioned in subsection (7)(a) or (b), and

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(b) provide that the third country competent authority has comparable rights in relation to a request from the Secretary of State.

(7) Those cases are—

(a) where the transfer of the papers would adversely affect the sovereignty, security or public order [F1414]...of the United Kingdom;

(b) where legal proceedings have been brought in the United Kingdom (whether continuing or not) in relation to the persons and matters to which the request relates.

[[F1415](7A) The arrangements must—

(a) provide that the Secretary of State may only disclose confidential information received from the third country competent authority—

(i) with the agreement of that authority or for purposes for which that authority has given its agreement,

(ii) where disclosure is required by law, or

(iii) where disclosure is necessary in connection with legal proceedings, and

(b) provide that the third country competent authority may only disclose confidential information received from the Secretary of State—

(i) with the Secretary of State's agreement or for purposes for which the Secretary of State has given agreement,

(ii) where disclosure is required by law, or

(iii) where disclosure is necessary in connection with legal proceedings.**]**

[F1416](8) . . . . . .

[F1416](9) . . . . . .**]**

Textual Amendments

F1407 S. 1253E substituted (15.11.2010) by The Companies Act 2006 (Transfer of Audit Working Papers to Third Countries) Regulations 2010 (S.I. 2010/2537), regs. 1(2), **3**

F1408 Words in s. 1253E substituted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 49(2)** (with reg. 1(2)(b))

F1409 Words in s. 1253E(4)(a) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **23(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F1410 Words in s. 1253E(4)(b) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **23(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F1411 Words in s. 1253E(4)(c) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **23(a)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)

F1412 Word in s. 1253E(5)(a) omitted (17.6.2016) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 49(3)(a)** (with reg. 1(2)(b))

F1413 S. 1253E(5)(c) and word inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 49(3)(b)** (with reg. 1(2)(b))

F1414 Words in s. 1253E(7) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **23(b)**; 2020 c. 1, Sch. 5 para. 1(1)

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F1415 S. 1253E(7A) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 49(4)** (with reg. 1(2)(b))
F1416 S. 1253E(8)(9) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **23(c)**; 2020 c. 1, Sch. 5 para. 1(1)

1253F Publication of working arrangements

If the Secretary of State enters into working arrangements in accordance with section 1253E, he must publish on a website without undue delay—

(a) the name of the third country competent authority with which he has entered into such arrangements, and

(b) the country or territory in which it is established.**]**

International obligations

1254 Directions to comply with international obligations

(1) If it appears to the Secretary of State—

[F1417(a) that any action proposed to be taken by—

(i) a recognised supervisory body,

(ii) a recognised qualifying body,

(iii) a person keeping a register of auditors, or part of such a register, in accordance with regulations under section 1239(1),

(iv) a body exercising functions under arrangements within Schedule 12,

(v) the Independent Supervisor,

(vi) the competent authority, or

(vii) a body designated by order under section 1252,

would be incompatible with **[**F1418retained EU obligations**]** or any other international obligations of the United Kingdom, or**]**

(b) that any action which that body has power to take is required for the purpose of implementing any such obligations,

he may direct the body not to take or, as the case may be, to take the action in question.

(2) A direction may include such supplementary or incidental requirements as the Secretary of State thinks necessary or expedient.

(3) A direction under this section given to **[**F1419the Independent Supervisor **][**F1420, the competent authority**]** or a body designated by order under section 1252 is enforceable on the application of the Secretary of State by injunction or, in Scotland, by an order under section 45 of the Court of Session Act 1988 (c. 36).

Textual Amendments

F1417 S. 1254(1)(a) substituted (1.5.2017) by The Statutory Auditors and Third Country Auditors Regulations 2017 (S.I. 2017/516), regs. 1(2), **13(7)(a)**
F1418 Words in s. 1254(1)(a) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **24**; 2020 c. 1, Sch. 5 para. 1(1)
F1419 Words in s. 1254(3) inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 16(3)**

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F1420 Words in s. 1254(3) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 50(3)**

General provision relating to offences

1255 Offences by bodies corporate, partnerships and unincorporated associations

(1) Where an offence under this Part committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the body, or a person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where an offence under this Part committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(3) Where an offence under this Part committed by an unincorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the association or any member of its governing body, he as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

Modifications etc. (not altering text)

C1710 S. 1255 modified (retrospective to 30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), arts. 1(2), 7, **Sch. para. 2(o)**

C1711 S. 1255 modified (1.3.2016) by The NRAM plc (formerly Northern Rock plc) Consequential and Supplementary Provisions Order 2016 (S.I. 2016/114), arts. 1(1), 7(1), (3), **Sch. para. 1(r)**

1256 Time limits for prosecution of offences

(1) An information relating to an offence under this Part which is triable by a magistrates' court in England and Wales may be so tried if it is laid at any time within the period of twelve months beginning with the date on which evidence sufficient in the opinion of the Director of Public Prosecutions or the Secretary of State to justify the proceedings comes to his knowledge.

(2) Proceedings in Scotland for an offence under this Part may be commenced at any time within the period of twelve months beginning with the date on which evidence sufficient in the Lord Advocate's opinion to justify proceedings came to his knowledge or, where such evidence was reported to him by the Secretary of State, within the period of twelve months beginning with the date on which it came to the knowledge of the Secretary of State.

(3) For the purposes of subsection (2) proceedings are to be deemed to be commenced on the date on which a warrant to apprehend or cite the accused is granted, if the warrant is executed without undue delay.

(4) A complaint charging an offence under this Part which is triable by a magistrates' court in Northern Ireland may be so tried if it is made at any time within the period

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

of twelve months beginning with the date on which evidence sufficient in the opinion of the Director of Public Prosecutions for Northern Ireland or the Secretary of State to justify the proceedings comes to his knowledge.

(5) This section does not authorise—

(a) in the case of proceedings in England and Wales, the trial of an information laid,

(b) in the case of proceedings in Scotland, the commencement of proceedings, or

(c) in the case of proceedings in Northern Ireland, the trial of a complaint made,

more than three years after the commission of the offence.

(6) For the purposes of this section a certificate of the Director of Public Prosecutions, the Lord Advocate, the Director of Public Prosecutions for Northern Ireland or the Secretary of State as to the date on which such evidence as is referred to above came to his knowledge is conclusive evidence.

(7) Nothing in this section affects proceedings within the time limits prescribed by section 127(1) of the Magistrates' Courts Act 1980 (c. 43), section 331 of the Criminal Procedure (Scotland) Act 1975 or Article 19 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (the usual time limits for criminal proceedings).

Modifications etc. (not altering text)

C1712 S. 1256(1)(2)(4)(6) modified (6.4.2008) by The Statutory Auditors (Delegation of Functions etc) Order 2008 (S.I. 2008/496), **art. 10** (which modifying S.I. was revoked (2.7.2012) by S.I. 2012/1741, **art. 6**)

C1713 S. 1256(1)(2)(4)(6) modified (2.7.2012) by The Statutory Auditors (Amendment of Companies Act 2006 and Delegation of Functions etc) Order 2012 (S.I. 2012/1741), arts. 1(2), **14**

C1714 S. 1256(1) modified (19.8.2014) by The Local Audit (Delegation of Functions) and Statutory Audit (Delegation of Functions) Order 2014 (S.I. 2014/2009), arts. 1(1), **9**

C1715 S. 1256(6) modified (19.8.2014) by The Local Audit (Delegation of Functions) and Statutory Audit (Delegation of Functions) Order 2014 (S.I. 2014/2009), arts. 1(1), **9**

1257 Jurisdiction and procedure in respect of offences

(1) Summary proceedings for an offence under this Part may, without prejudice to any jurisdiction exercisable apart from this section, be taken—

(a) against a body corporate or unincorporated association at any place at which it has a place of business, and

(b) against an individual at any place where he is for the time being.

(2) Proceedings for an offence alleged to have been committed under this Part by an unincorporated association must be brought in the name of the association (and not in that of any of its members), and for the purposes of any such proceedings any rules of court relating to the service of documents apply as in relation to a body corporate.

(3) Section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43) (procedure on charge of offence against a corporation) apply in a case in which an unincorporated association is charged in England and Wales with an offence under this Part as they apply in the case of a corporation.

(4) Section 18 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.)) and Article 166 and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981

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(S.I. 1981/1675 (N.I. 26)) (procedure on charge of offence against a corporation) apply in a case in which an unincorporated association is charged in Northern Ireland with an offence under this Part as they apply in the case of a corporation.

(5) In relation to proceedings on indictment in Scotland for an offence alleged to have been committed under this Part by an unincorporated association, section 70 of the Criminal Procedure (Scotland) Act 1995 (proceedings on indictment against bodies corporate) applies as if the association were a body corporate.

(6) A fine imposed on an unincorporated association on its conviction of such an offence must be paid out of the funds of the association.

Notices etc

1258 Service of notices

(1) This section has effect in relation to any notice, direction or other document required or authorised by or by virtue of this Part to be given to or served on any person other than the Secretary of State.

(2) Any such document may be given to or served on the person in question—

(a) by delivering it to him,

(b) by leaving it at his proper address, or

(c) by sending it by post to him at that address.

(3) Any such document may—

(a) in the case of a body corporate, be given to or served on an officer of that body;

(b) in the case of a partnership, be given to or served on any partner;

(c) in the case of an unincorporated association other than a partnership, be given to or served on any member of the governing body of that association.

(4) For the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30) (service of documents by post) in its application to this section, the proper address of any person is his last known address (whether of his residence or of a place where he carries on business or is employed) and also—

(a) in the case of a person who is eligible under the rules of a recognised supervisory body for appointment as a statutory auditor and who does not have a place of business in the United Kingdom, the address of that body;

(b) in the case of a body corporate or an officer of that body, the address of the registered or principal office of that body in the United Kingdom;

(c) in the case of an unincorporated association other than a partnership or a member of its governing body, its principal office in the United Kingdom.

1259 Documents in electronic form

(1) This section applies where—

(a) section 1258 authorises the giving or sending of a notice, direction or other document by its delivery to a particular person ("the recipient"), and

(b) the notice, direction or other document is transmitted to the recipient—

(i) by means of an electronic communications network, or

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(ii) by other means but in a form that requires the use of apparatus by the recipient to render it intelligible.

(2) The transmission has effect for the purposes of this Part as a delivery of the notice, direction or other document to the recipient, but only if the recipient has indicated to the person making the transmission his willingness to receive the notice, direction or other document in the form and manner used.

(3) An indication to a person for the purposes of subsection (2)—

(a) must be given to the person in such manner as he may require,

(b) may be a general indication or an indication that is limited to notices, directions or other documents of a particular description,

(c) must state the address to be used,

(d) must be accompanied by such other information as the person requires for the making of the transmission, and

(e) may be modified or withdrawn at any time by a notice given to the person in such manner as he may require.

(4) In this section "electronic communications network" has the same meaning as in the Communications Act 2003 (c. 21).

Interpretation

1260 Meaning of "associate"

(1) In this Part "associate", in relation to a person, is to be construed as follows.

(2) In relation to an individual, "associate" means—

(a) that individual's spouse, civil partner or minor child or step-child,

(b) any body corporate of which that individual is a director, and

(c) any employee or partner of that individual.

(3) In relation to a body corporate, "associate" means—

(a) any body corporate of which that body is a director,

(b) any body corporate in the same group as that body, and

(c) any employee or partner of that body or of any body corporate in the same group.

(4) In relation to a partnership constituted under the law of Scotland, or any other country or territory in which a partnership is a legal person, "associate" means—

(a) any body corporate of which that partnership is a director,

(b) any employee of or partner in that partnership, and

(c) any person who is an associate of a partner in that partnership.

(5) In relation to a partnership constituted under the law of England and Wales or Northern Ireland, or the law of any other country or territory in which a partnership is not a legal person, "associate" means any person who is an associate of any of the partners.

(6) In subsections (2)(b), (3)(a) and (4)(a), in the case of a body corporate which is a limited liability partnership, "director" is to be read as "member".

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1261 Minor definitions

(1) In this Part, unless a contrary intention appears—

"address" means—

(a) in relation to an individual, his usual residential or business address;

(b) in relation to a firm, its registered or principal office in the United Kingdom;

F1421 …

[F1422 "the Audit Regulation " means Regulation 537/2014 of the European Parliament and of the Council on specific requirements regarding statutory audit of public interest entities; **]**

F1423 …

[F1422"audit working papers and investigation reports" means—

(a) any documents which are or have been held by a statutory auditor F1424... or a third country auditor and which are related to the conduct of an audit conducted by that auditor;

(b) any report of an inspection of the conduct of an audit by a statutory auditor F1424... or a third country auditor, or

(c) any report of an investigation into the conduct of a statutory auditor F1424... or a third country auditor, **]**

"company" means any company or other body the accounts of which must be audited in accordance with Part 16;

[F1422"the competent authority" means the Financial Reporting Council Limited**]**

[F1425"the data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);**]**

"director", in relation to a body corporate, includes any person occupying in relation to it the position of a director (by whatever name called) and any person in accordance with whose directions or instructions (not being advice given in a professional capacity) the directors of the body are accustomed to act;

F1426 …

F1426 …

"firm" means any entity, whether or not a legal person, which is not an individual and includes a body corporate, a corporation sole and a partnership or other unincorporated association;

"group", in relation to a body corporate, means the body corporate, any other body corporate which is its holding company or subsidiary and any other body corporate which is a subsidiary of that holding company;

"holding company" and "subsidiary" are to be read in accordance with section 1159 and Schedule 6;

"officer", in relation to a body corporate, includes a director, a manager, a secretary or, where the affairs of the body are managed by its members, a member;

"parent undertaking" and "subsidiary undertaking" are to be read in accordance with section 1162 and Schedule 7.

[F1427"regulated market" has the meaning given in Article 2(1)(13) of Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 and amending Regulation (EU) No. 648/2012;**]**

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[F1428“third country” means a country or territory **[**F1429other than the United Kingdom**];]**

[F1430 “ third country auditor ” means a person, other than F1431... a person eligible for appointment as a statutory auditor, who is eligible to conduct audits of the accounts of bodies corporate incorporated or formed under the law of a third country in accordance with the law of that country; **]**

[F1432“third country competent authority” means a body established in a third country exercising functions related to the regulation or oversight of auditors; **]**

[F1433 “transfer”, in relation to audit working papers **[**F1434and investigation reports**]**, includes physical and electronic transfer and allowing access to such papers; **]**

[F1435“transferable securities” has the meaning given in Article 2(1)(24) of Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 and amending Regulation (EU) No. 648/2012;**]**

[F1435“UK regulated market” has the meaning given in Article 2(1)(13A) of Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 and amending Regulation (EU) No. 648/2012;**]**

(2) For the purposes of this Part a body is to be regarded as “established in the United Kingdom” if and only if—

(a) it is incorporated or formed under the law of the United Kingdom or a part of the United Kingdom, or

(b) its central management and control are exercised in the United Kingdom;

and any reference to a qualification “obtained in the United Kingdom” is to a qualification obtained from such a body.

F1436(2A) . . . . . .

(3) The Secretary of State may by regulations make such modifications of this Part as appear to him to be necessary or appropriate for the purposes of its application in relation to any firm, or description of firm, which is not a body corporate or a partnership.

(4) Regulations under subsection (3) are subject to negative resolution procedure.

Textual Amendments

F1421 Words in s. 1261(1) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **25(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F1422 Words in s. 1261(1) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 51(2)(a)** (with reg. 1(2)(c)(i))

F1423 Words in s. 1261(1) omitted (17.6.2016) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 51(2)(c)** (with reg. 1(2)(c)(ii))

F1424 Words in s. 1261(1) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **25(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F1425 Words in s. 1261(1) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 127** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

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F1426 Words in s. 1261(1) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **25(a)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)

F1427 Words in s. 1261(1) inserted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **25(a)(iv)**; 2020 c. 1, Sch. 5 para. 1(1)

F1428 S. 1261(1): definition inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 2(2)**

F1429 Words in s. 1261(1) substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **25(a)(v)**; 2020 c. 1, Sch. 5 para. 1(1)

F1430 S. 1261(1): definition inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 2(2)**

F1431 Words in s. 1261(1) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **25(a)(vi)**; 2020 c. 1, Sch. 5 para. 1(1)

F1432 S. 1261(1): definition inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 2(2)**

F1433 S. 1261(1): definition of "transfer" inserted (15.11.2010) by The Companies Act 2006 (Transfer of Audit Working Papers to Third Countries) Regulations 2010 (S.I. 2010/2537), regs. 1(2), **6(4)**

F1434 Words in s. 1261(1) inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 51(2)(e)** (with reg. 1(2)(c)(ii))

F1435 Words in s. 1261(1) inserted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **25(a)(vii)**; 2020 c. 1, Sch. 5 para. 1(1)

F1436 S. 1261(2A) omitted (31.12.2020) by virtue of The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **25(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I464 S. 1261 wholly in force at 6.4.2008; s. 1261 not in force at Royal Assent, see s. 1300; s. 1261 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1261 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(u)** (with savings in arts. 7, 12, Sch. 4 paras. 37-42)

1262 Index of defined expressions

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used only in the same section)—

Expression	*Provision*
address	section 1261(1)
appropriate qualification	section 1219
[[F1437]approved third country competent authority	**[**[F1438]section 1240B(1)**];]**
[[F1439]approved third country qualification	section 1221(1)**]**
associate	section 1260
[[F1440]Audit Directive	**[**[F1441]paragraph 20A of Schedule 10**]]**

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[F1442Audit Regulation	section 1261(1)**]**
[F1439audit regulatory regime	section 1240A(3)**]**
F1443	F1443
. . .	. . .
[F1442audit working papers and investigation reports	section 1261(1)**]**
audited person	section 1210(2)
Auditor General	section 1226(1)
company	section 1261(1)
[F1442competent authority	section 1261(1)**]**
[F1444the data protection legislation**]**	**[**F1444section 1261(1)**]**
delegation order	section 1252(1)
director (of a body corporate)	section 1261(1)
[F1445EEA auditor	**[**F1446paragraph 20A of Schedule 10**]]**
[F1447EEA competent authority	**[**F1448paragraph 20A of Schedule 10**]]**
enactment	section 1293
[F1439equivalent third country	section 1240A(1)**]**
established in the United Kingdom	section 1261(2)
firm	section 1261(1)
group (in relation to a body corporate)	section 1261(1)
holding company	section 1261(1)
main purposes of this Part	section 1209
member (of a supervisory body)	section 1217(2)
obtained in the United Kingdom	section 1261(2)
officer	section 1261(1)
parent undertaking	section 1261(1)
qualifying body	section 1220(1)
recognised, in relation to a professional qualification	section 1220(3) and Schedule 11
recognised, in relation to a qualifying body	paragraph 1(2) of Schedule 11
recognised, in relation to a supervisory body	section 1217(4) and Schedule 10
registered third country auditor	section 1241(1)
[F1439regulated market	section 1261(1)**]**
rules of a qualifying body	section 1220(2)
rules of a supervisory body	section 1217(3)

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statutory auditor, statutory audit and statutory audit work	section 1210(1)
subsidiary	section 1261(1)
supervisory body	section 1217(1)
subsidiary undertaking	section 1261(1)
[F1449third country	section 1261(1)**]**
third country auditor, F1450	Section 1261(1).
. . .	
[F1451third country competent authority	section 1261(1)**]**
[F1452transfer (in relation to audit working papers)	section 1261(1)**]**
[F1439transferable securities	section 1261(1)**]**
[F1439transitional third country	section 1240A(1)**]**
[F1439UK regulated market	section 1261(1)**]**
[F1453**[**F1454UK-traded third country company**]**	section 1261(2)**]**

Textual Amendments

F1437 S. 1262: entry inserted (15.11.2010) by The Companies Act 2006 (Transfer of Audit Working Papers to Third Countries) Regulations 2010 (S.I. 2010/2537), regs. 1(2), **6(5)**

F1438 Words in s. 1262 substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **26(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F1439 S. 1262 entries inserted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **26(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1440 S. 1262: entry inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 3(2)**

F1441 Words in s. 1262 substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **26(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F1442 S. 1262 entries inserted (17.6.2016) by The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 52(2)** (with reg. 1(2)(d)(i))

F1443 S. 1262 entry omitted (17.6.2016) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2016 (S.I. 2016/649), reg. 1(1)(a), **Sch. 3 para. 52(3)** (with reg. 1(2)(d)(ii))

F1444 Words in s. 1262 inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 128** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

F1445 S. 1262: entry inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 3(2)**

F1446 Words in s. 1262 substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **26(d)**; 2020 c. 1, Sch. 5 para. 1(1)

F1447 S. 1262: entry inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 3(2)**

F1448 Words in s. 1262 substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **26(e)**; 2020 c. 1, Sch. 5 para. 1(1)

F1449 S. 1262: entry inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 3(2)**

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F1450 Words in s. 1262 omitted (6.4.2008) by virtue of The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 3(3)(a)**
F1451 S. 1262: entry inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 3(2)**
F1452 S. 1262: entry inserted (15.11.2010) by The Companies Act 2006 (Transfer of Audit Working Papers to Third Countries) Regulations 2010 (S.I. 2010/2537), regs. 1(2), **6(5)**
F1453 S. 1262: entry inserted (6.4.2008) by The Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494), **reg. 3(2)**
F1454 Words in s. 1262 substituted (31.12.2020) by The Statutory Auditors and Third Country Auditors (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/177), regs. 2, **26(f)**; 2020 c. 1, Sch. 5 para. 1(1)

Miscellaneous and general

1263 Power to make provision in consequence of changes affecting accountancy bodies

(1) The Secretary of State may by regulations make such amendments of enactments as appear to him to be necessary or expedient in consequence of any change of name, merger or transfer of engagements affecting—

(a) a recognised supervisory body or recognised qualifying body, or

(b) a body of accountants referred to in, or approved, authorised or otherwise recognised for the purposes of, any other enactment.

(2) Regulations under this section are subject to negative resolution procedure.

Commencement Information

I465 S. 1263 wholly in force at 6.4.2008; s. 1263 not in force at Royal Assent, see s. 1300; s. 1263 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1263 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(u)** (with savings in arts. 7, 12, Sch. 4 paras. 37-42)

1264 Consequential amendments

Schedule 14 contains consequential amendments relating to this Part.

PART 43

TRANSPARENCY OBLIGATIONS AND RELATED MATTERS

Introductory

1265 The transparency obligations directive

In Part 6 of the Financial Services and Markets Act 2000 (c. 8) (which makes provision about official listing, prospectus requirements for transferable securities, etc), in section 103(1) (interpretation), at the appropriate place insert—

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""the transparency obligations directive" means Directive 2004/109/EC of the European Parliament and of the Council relating to the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market;".

Transparency obligations

1266 Transparency rules

(1) After section 89 of the Financial Services and Markets Act 2000 insert—

"Transparency obligations

89A Transparency rules

(1) The competent authority may make rules for the purposes of the transparency obligations directive.

(2) The rules may include provision for dealing with any matters arising out of or related to any provision of the transparency obligations directive.

(3) The competent authority may also make rules—

(a) for the purpose of ensuring that voteholder information in respect of voting shares traded on a UK market other than a regulated market is made public or notified to the competent authority;

(b) providing for persons who hold comparable instruments (see section 89F(1)(c)) in respect of voting shares to be treated, in the circumstances specified in the rules, as holding some or all of the voting rights in respect of those shares.

(4) Rules under this section may, in particular, make provision—

(a) specifying how the proportion of—

(i) the total voting rights in respect of shares in an issuer, or

(ii) the total voting rights in respect of a particular class of shares in an issuer,

held by a person is to be determined;

(b) specifying the circumstances in which, for the purposes of any determination of the voting rights held by a person ("P") in respect of voting shares in an issuer, any voting rights held, or treated by virtue of subsection (3)(b) as held, by another person in respect of voting shares in the issuer are to be regarded as held by P;

(c) specifying the nature of the information which must be included in any notification;

(d) about the form of any notification;

(e) requiring any notification to be given within a specified period;

(f) specifying the manner in which any information is to be made public and the period within which it must be made public;

(g) specifying circumstances in which any of the requirements imposed by rules under this section does not apply.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(5) Rules under this section are referred to in this Part as "transparency rules".

(6) Nothing in sections 89B to 89G affects the generality of the power to make rules under this section.

89B Provision of voteholder information

(1) Transparency rules may make provision for voteholder information in respect of voting shares to be notified, in circumstances specified in the rules—

(a) to the issuer, or

(b) to the public,

or to both.

(2) Transparency rules may make provision for voteholder information notified to the issuer to be notified at the same time to the competent authority.

(3) In this Part "voteholder information" in respect of voting shares means information relating to the proportion of voting rights held by a person in respect of the shares.

(4) Transparency rules may require notification of voteholder information relating to a person—

(a) initially, not later than such date as may be specified in the rules for the purposes of the first indent of Article 30.2 of the transparency obligations directive, and

(b) subsequently, in accordance with the following provisions.

(5) Transparency rules under subsection (4)(b) may require notification of voteholder information relating to a person only where there is a notifiable change in the proportion of—

(a) the total voting rights in respect of shares in the issuer, or

(b) the total voting rights in respect of a particular class of share in the issuer,

held by the person.

(6) For this purpose there is a "notifiable change" in the proportion of voting rights held by a person when the proportion changes—

(a) from being a proportion less than a designated proportion to a proportion equal to or greater than that designated proportion,

(b) from being a proportion equal to a designated proportion to a proportion greater or less than that designated proportion, or

(c) from being a proportion greater than a designated proportion to a proportion equal to or less than that designated proportion.

(7) In subsection (6) "designated" means designated by the rules.

89C Provision of information by issuers of transferable securities

(1) Transparency rules may make provision requiring the issuer of transferable securities, in circumstances specified in the rules—

(a) to make public information to which this section applies, or

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(b) to notify to the competent authority information to which this section applies,

or to do both.

(2) In the case of every issuer, this section applies to—

(a) information required by Article 4 of the transparency obligations directive;

(b) information relating to the rights attached to the transferable securities, including information about the terms and conditions of those securities which could indirectly affect those rights; and

(c) information about new loan issues and about any guarantee or security in connection with any such issue.

(3) In the case of an issuer of debt securities, this section also applies to information required by Article 5 of the transparency obligations directive.

(4) In the case of an issuer of shares, this section also applies to—

(a) information required by Article 5 of the transparency obligations directive;

(b) information required by Article 6 of that directive;

(c) voteholder information—

(i) notified to the issuer, or

(ii) relating to the proportion of voting rights held by the issuer in respect of shares in the issuer;

(d) information relating to the issuer's capital; and

(e) information relating to the total number of voting rights in respect of shares or shares of a particular class.

89D Notification of voting rights held by issuer

(1) Transparency rules may require notification of voteholder information relating to the proportion of voting rights held by an issuer in respect of voting shares in the issuer—

(a) initially, not later than such date as may be specified in the rules for the purposes of the second indent of Article 30.2 of the transparency obligations directive, and

(b) subsequently, in accordance with the following provisions.

(2) Transparency rules under subsection (1)(b) may require notification of voteholder information relating to the proportion of voting rights held by an issuer in respect of voting shares in the issuer only where there is a notifiable change in the proportion of—

(a) the total voting rights in respect of shares in the issuer, or

(b) the total voting rights in respect of a particular class of share in the issuer,

held by the issuer.

(3) For this purpose there is a "notifiable change" in the proportion of voting rights held by a person when the proportion changes—

(a) from being a proportion less than a designated proportion to a proportion equal to or greater than that designated proportion,

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(b) from being a proportion equal to a designated proportion to a proportion greater or less than that designated proportion, or

(c) from being a proportion greater than a designated proportion to a proportion equal to or less than that designated proportion.

(4) In subsection (3) "designated" means designated by the rules.

89E Notification of proposed amendment of issuer's constitution

Transparency rules may make provision requiring an issuer of transferable securities that are admitted to trading on a regulated market to notify a proposed amendment to its constitution—

(a) to the competent authority, and

(b) to the market on which the issuer's securities are admitted,

at times and in circumstances specified in the rules.

89F Transparency rules: interpretation etc

(1) For the purposes of sections 89A to 89G—

(a) the voting rights in respect of any voting shares are the voting rights attached to those shares,

(b) a person is to be regarded as holding the voting rights in respect of the shares—

(i) if, by virtue of those shares, he is a shareholder within the meaning of Article 2.1(e) of the transparency obligations directive;

(ii) if, and to the extent that, he is entitled to acquire, dispose of or exercise those voting rights in one or more of the cases mentioned in Article 10(a) to (h) of the transparency obligations directive;

(iii) if he holds, directly or indirectly, a financial instrument which results in an entitlement to acquire the shares and is an Article 13 instrument, and

(c) a person holds a "comparable instrument" in respect of voting shares if he holds, directly or indirectly, a financial instrument in relation to the shares which has similar economic effects to an Article 13 instrument (whether or not the financial instrument results in an entitlement to acquire the shares).

(2) Transparency rules under section 89A(3)(b) may make different provision for different descriptions of comparable instrument.

(3) For the purposes of sections 89A to 89G two or more persons may, at the same time, each be regarded as holding the same voting rights.

(4) In those sections—

"Article 13 instrument" means a financial instrument of a type determined by the European Commission under Article 13.2 of the transparency obligations directive;

"UK market" means a market that is situated or operating in the United Kingdom;

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"voting shares" means shares of an issuer to which voting rights are attached.

89G Transparency rules: other supplementary provisions

(1) Transparency rules may impose the same obligations on a person who has applied for the admission of transferable securities to trading on a regulated market without the issuer's consent as they impose on an issuer of transferable securities.

(2) Transparency rules that require a person to make information public may include provision authorising the competent authority to make the information public in the event that the person fails to do so.

(3) The competent authority may make public any information notified to the authority in accordance with transparency rules.

(4) Transparency rules may make provision by reference to any provision of any rules made by the Panel on Takeovers and Mergers under Part 28 of the Companies Act 2006.

(5) Sections 89A to 89F and this section are without prejudice to any other power conferred by this Part to make Part 6 rules.".

(2) The effectiveness for the purposes of section 155 of the Financial Services and Markets Act 2000 (c. 8) (consultation on proposed rules) of things done by the Financial Services Authority before this section comes into force with a view to making transparency rules (as defined in the provisions to be inserted in that Act by subsection (1) above) is not affected by the fact that those provisions were not then in force.

1267 Competent authority's power to call for information

In Part 6 of the Financial Services and Markets Act 2000 after the sections inserted by section 1266 above insert—

"Power of competent authority to call for information

89H Competent authority's power to call for information

(1) The competent authority may by notice in writing given to a person to whom this section applies require him—

(a) to provide specified information or information of a specified description, or

(b) to produce specified documents or documents of a specified description.

(2) This section applies to—

(a) an issuer in respect of whom transparency rules have effect;

(b) a voteholder;

(c) an auditor of—

(i) an issuer to whom this section applies, or

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(ii) a voteholder;

(d) a person who controls a voteholder;

(e) a person controlled by a voteholder;

(f) a director or other similar officer of an issuer to whom this section applies;

(g) a director or other similar officer of a voteholder or, where the affairs of a voteholder are managed by its members, a member of the voteholder.

(3) This section applies only to information and documents reasonably required in connection with the exercise by the competent authority of functions conferred on it by or under sections 89A to 89G (transparency rules).

(4) Information or documents required under this section must be provided or produced—

(a) before the end of such reasonable period as may be specified, and

(b) at such place as may be specified.

(5) If a person claims a lien on a document, its production under this section does not affect the lien.

89I Requirements in connection with call for information

(1) The competent authority may require any information provided under section 89H to be provided in such form as it may reasonably require.

(2) The competent authority may require—

(a) any information provided, whether in a document or otherwise, to be verified in such manner as it may reasonably require;

(b) any document produced to be authenticated in such manner as it may reasonably require.

(3) If a document is produced in response to a requirement imposed under section 89H, the competent authority may—

(a) take copies of or extracts from the document; or

(b) require the person producing the document, or any relevant person, to provide an explanation of the document.

(4) In subsection (3)(b) "relevant person", in relation to a person who is required to produce a document, means a person who—

(a) has been or is a director or controller of that person;

(b) has been or is an auditor of that person;

(c) has been or is an actuary, accountant or lawyer appointed or instructed by that person; or

(d) has been or is an employee of that person.

(5) If a person who is required under section 89H to produce a document fails to do so, the competent authority may require him to state, to the best of his knowledge and belief, where the document is.

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89J Power to call for information: supplementary provisions

(1) The competent authority may require an issuer to make public any information provided to the authority under section 89H.

(2) If the issuer fails to comply with a requirement under subsection (1), the competent authority may, after seeking representations from the issuer, make the information public.

(3) In sections 89H and 89I (power of competent authority to call for information) —

"control" and "controlled" have the meaning given by subsection (4) below;

"specified" means specified in the notice;

"voteholder" means a person who—

(a) holds voting rights in respect of any voting shares for the purposes of sections 89A to 89G (transparency rules), or

(b) is treated as holding such rights by virtue of rules under section 89A(3)(b).

(4) For the purposes of those sections a person ("A") controls another person ("B") if—

(a) A holds a majority of the voting rights in B,

(b) A is a member of B and has the right to appoint or remove a majority of the members of the board of directors (or, if there is no such board, the equivalent management body) of B,

(c) A is a member of B and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in B, or

(d) A has the right to exercise, or actually exercises, dominant influence or control over B.

(5) For the purposes of subsection (4)(b)—

(a) any rights of a person controlled by A, and

(b) any rights of a person acting on behalf of A or a person controlled by A,

are treated as held by A.".

1268 Powers exercisable in case of infringement of transparency obligation

In Part 6 of the Financial Services and Markets Act 2000 (c. 8), after the sections inserted by section 1267 above insert—

"Powers exercisable in case of infringement of transparency obligation

89K Public censure of issuer

(1) If the competent authority finds that an issuer of securities admitted to trading on a regulated market is failing or has failed to comply with an applicable transparency obligation, it may publish a statement to that effect.

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(2) If the competent authority proposes to publish a statement, it must give the issuer a warning notice setting out the terms of the proposed statement.

(3) If, after considering any representations made in response to the warning notice, the competent authority decides to make the proposed statement, it must give the issuer a decision notice setting out the terms of the statement.

(4) A notice under this section must inform the issuer of his right to refer the matter to the Tribunal (see section 89N) and give an indication of the procedure on such a reference.

(5) In this section "transparency obligation" means an obligation under—

(a) a provision of transparency rules, or

(b) any other provision made in accordance with the transparency obligations directive.

(6) In relation to an issuer whose home State is a member State other than the United Kingdom, any reference to an applicable transparency obligation must be read subject to section 100A(2).

89L Power to suspend or prohibit trading of securities

(1) This section applies to securities admitted to trading on a regulated market.

(2) If the competent authority has reasonable grounds for suspecting that an applicable transparency obligation has been infringed by an issuer, it may—

(a) suspend trading in the securities for a period not exceeding 10 days,

(b) prohibit trading in the securities, or

(c) make a request to the operator of the market on which the issuer's securities are traded—

(i) to suspend trading in the securities for a period not exceeding 10 days, or

(ii) to prohibit trading in the securities.

(3) If the competent authority has reasonable grounds for suspecting that a provision required by the transparency obligations directive has been infringed by a voteholder of an issuer, it may—

(a) prohibit trading in the securities, or

(b) make a request to the operator of the market on which the issuer's securities are traded to prohibit trading in the securities.

(4) If the competent authority finds that an applicable transparency obligation has been infringed, it may require the market operator to prohibit trading in the securities.

(5) In this section "transparency obligation" means an obligation under—

(a) a provision contained in transparency rules, or

(b) any other provision made in accordance with the transparency obligations directive.

(6) In relation to an issuer whose home State is a member State other than the United Kingdom, any reference to an applicable transparency obligation must be read subject to section 100A(2).

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89M Procedure under section 89L

(1) A requirement under section 89L takes effect—

(a) immediately, if the notice under subsection (2) states that that is the case;

(b) in any other case, on such date as may be specified in the notice.

(2) If the competent authority—

(a) proposes to exercise the powers in section 89L in relation to a person, or

(b) exercises any of those powers in relation to a person with immediate effect,

it must give that person written notice.

(3) The notice must—

(a) give details of the competent authority's action or proposed action;

(b) state the competent authority's reasons for taking the action in question and choosing the date on which it took effect or takes effect;

(c) inform the recipient that he may make representations to the competent authority within such period as may be specified by the notice (whether or not he had referred the matter to the Tribunal);

(d) inform him of the date on which the action took effect or takes effect;

(e) inform him of his right to refer the matter to the Tribunal (see section 89N) and give an indication of the procedure on such a reference.

(4) The competent authority may extend the period within which representations may be made to it.

(5) If, having considered any representations made to it, the competent authority decides to maintain, vary or revoke its earlier decision, it must give written notice to that effect to the person mentioned in subsection (2).

89N Right to refer matters to the Tribunal

A person—

(a) to whom a decision notice is given under section 89K (public censure), or

(b) to whom a notice is given under section 89M (procedure in connection with suspension or prohibition of trading),

may refer the matter to the Tribunal.".

Other matters

1269 Corporate governance rules

In Part 6 of the Financial Services and Markets Act 2000 (c. 8), after the sections inserted by section 1268 above insert—

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"Corporate governance

89O Corporate governance rules

(1) The competent authority may make rules ("corporate governance rules")—

(a) for the purpose of implementing, enabling the implementation of or dealing with matters arising out of or related to, any **[**[F1455]EU**]** obligation relating to the corporate governance of issuers who have requested or approved admission of their securities to trading on a regulated market;

(b) about corporate governance in relation to such issuers for the purpose of implementing, or dealing with matters arising out of or related to, any **[**[F1455]EU**]** obligation.

(2) "Corporate governance", in relation to an issuer, includes—

(a) the nature, constitution or functions of the organs of the issuer;

(b) the manner in which organs of the issuer conduct themselves;

(c) the requirements imposed on organs of the issuer;

(d) the relationship between the different organs of the issuer;

(e) the relationship between the organs of the issuer and the members of the issuer or holders of the issuer's securities.

(3) The burdens and restrictions imposed by rules under this section on foreign-traded issuers must not be greater than the burdens and restrictions imposed on UK-traded issuers by—

(a) rules under this section, and

(b) listing rules.

(4) For this purpose—

"foreign-traded issuer" means an issuer who has requested or approved admission of the issuer's securities to trading on a regulated market situated or operating outside the United Kingdom;

"UK-traded issuer" means an issuer who has requested or approved admission of the issuer's securities to trading on a regulated market situated or operating in the United Kingdom.

(5) This section is without prejudice to any other power conferred by this Part to make Part 6 rules.".

Textual Amendments

F1455 S. 1269: term substituted (22.4.2011 with application in accordance with art. 3(3) of the amending S.I.) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), art. {6(1)}

1270 Liability for false or misleading statements in certain publications

In Part 6 of the Financial Services and Markets Act 2000 (c. 8), after section 90 insert—

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"**90A Compensation for statements in certain publications**

(1) The publications to which this section applies are—

(a) any reports and statements published in response to a requirement imposed by a provision implementing Article 4, 5 or 6 of the transparency obligations directive, and

(b) any preliminary statement made in advance of a report or statement to be published in response to a requirement imposed by a provision implementing Article 4 of that directive, to the extent that it contains information that it is intended—

(i) will appear in the report or statement, and

(ii) will be presented in the report or statement in substantially the same form as that in which it is presented in the preliminary statement.

(2) The securities to which this section applies are—

(a) securities that are traded on a regulated market situated or operating in the United Kingdom, and

(b) securities that—

(i) are traded on a regulated market situated or operating outside the United Kingdom, and

(ii) are issued by an issuer for which the United Kingdom is the home Member State within the meaning of Article 2.1(i) of the transparency obligations directive.

(3) The issuer of securities to which this section applies is liable to pay compensation to a person who has—

(a) acquired such securities issued by it, and

(b) suffered loss in respect of them as a result of—

(i) any untrue or misleading statement in a publication to which this section applies, or

(ii) the omission from any such publication of any matter required to be included in it.

(4) The issuer is so liable only if a person discharging managerial responsibilities within the issuer in relation to the publication—

(a) knew the statement to be untrue or misleading or was reckless as to whether it was untrue or misleading, or

(b) knew the omission to be dishonest concealment of a material fact.

(5) A loss is not regarded as suffered as a result of the statement or omission in the publication unless the person suffering it acquired the relevant securities—

(a) in reliance on the information in the publication, and

(b) at a time when, and in circumstances in which, it was reasonable for him to rely on that information.

(6) Except as mentioned in subsection (8)—

(a) the issuer is not subject to any other liability than that provided for by this section in respect of loss suffered as a result of reliance by any person on—

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(i) an untrue or misleading statement in a publication to which this section applies, or

(ii) the omission from any such publication of any matter required to be included in it, and

(b) a person other than the issuer is not subject to any liability, other than to the issuer, in respect of any such loss.

(7) Any reference in subsection (6) to a person being subject to a liability includes a reference to another person being entitled as against him to be granted any civil remedy or to rescind or repudiate an agreement.

(8) This section does not affect—

(a) the powers conferred by section 382 and 384 (powers of the court to make a restitution order and of the Authority to require restitution);

(b) liability for a civil penalty;

(c) liability for a criminal offence.

(9) For the purposes of this section—

(a) the following are persons "discharging managerial responsibilities" in relation to a publication—

(i) any director of the issuer (or person occupying the position of director, by whatever name called),

(ii) in the case of an issuer whose affairs are managed by its members, any member of the issuer,

(iii) in the case of an issuer that has no persons within sub-paragraph (i) or (ii), any senior executive of the issuer having responsibilities in relation to the publication;

(b) references to the acquisition by a person of securities include his contracting to acquire them or any interest in them.

90B Power to make further provision about liability for published information

(1) The Treasury may by regulations make provision about the liability of issuers of securities traded on a regulated market, and other persons, in respect of information published to holders of securities, to the market or to the public generally.

(2) Regulations under this section may amend any primary or subordinate legislation, including any provision of, or made under, this Act.".

1271 Exercise of powers where UK is host member State

In Part 6 of the Financial Services and Markets Act 2000 (c. 8), after section 100 insert—

"**100A Exercise of powers where UK is host member state**

(1) This section applies to the exercise by the competent authority of any power under this Part exercisable in case of infringement of—

(a) a provision of prospectus rules or any other provision made in accordance with the prospectus directive, or

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(b) a provision of transparency rules or any other provision made in accordance with the transparency obligations directive,

in relation to an issuer whose home State is a member State other than the United Kingdom.

(2) The competent authority may act in such a case only in respect of the infringement of a provision required by the relevant directive.

Any reference to an applicable provision or applicable transparency obligation shall be read accordingly.

(3) If the authority finds that there has been such an infringement, it must give a notice to that effect to the competent authority of the person's home State requesting it—

(a) to take all appropriate measures for the purpose of ensuring that the person remedies the situation that has given rise to the notice, and

(b) to inform the authority of the measures it proposes to take or has taken or the reasons for not taking such measures.

(4) The authority may not act further unless satisfied—

(a) that the competent authority of the person's home State has failed or refused to take measures for the purpose mentioned in subsection (3)(a), or

(b) that the measures taken by that authority have proved inadequate for that purpose.

This does not affect exercise of the powers under section 87K(2), 87L(2) or (3) or 89L(2) or (3) (powers to protect market).

(5) If the authority is so satisfied, it must, after informing the competent authority of the person's home State, take all appropriate measures to protect investors.

(6) In such a case the authority must inform the Commission of the measures at the earliest opportunity.".

1272 Transparency obligations and related matters: minor and consequential amendments

(1) Schedule 15 to this Act makes minor and consequential amendments in connection with the provision made by this Part.

(2) In that Schedule–

Part 1 contains amendments of the Financial Services and Markets Act 2000 (c. 8);

Part 2 contains amendments of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27).

[F1456]1273 Corporate governance regulations

. . . . . .

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Textual Amendments

F1456 S. 1273 omitted (31.12.2020) by virtue of The Official Listing of Securities, Prospectus and Transparency (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/707), regs. 1(2), **39** (with savings in S.I. 2019/680, reg. 11 (as amended by S.I. 2019/1234, regs. 1(3), 29(2))); 2020 c. 1, Sch. 5 para. 1(1)

PART 44

MISCELLANEOUS PROVISIONS

Regulation of actuaries etc

1274 Grants to bodies concerned with actuarial standards etc

(1) Section 16 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27) (grants to bodies concerned with accounting standards etc) is amended as follows.

(2) In subsection (2) (matters carried on by bodies eligible for grants) for paragraph (l) substitute—

"(l) issuing standards to be applied in actuarial work;

(m) issuing standards in respect of matters to be contained in reports or other communications required to be produced or made by actuaries or in accordance with standards within paragraph (l);

(n) investigating departures from standards within paragraph (l) or (m);

(o) taking steps to secure compliance with standards within paragraph (l) or (m);

(p) carrying out investigations into public interest cases arising in connection with the performance of actuarial functions by members of professional actuarial bodies;

(q) holding disciplinary hearings relating to members of professional actuarial bodies following the conclusion of investigations within paragraph (p);

(r) deciding whether (and, if so, what) disciplinary action should be taken against members of professional actuarial bodies to whom hearings within paragraph (q) related;

(s) supervising the exercise by professional actuarial bodies of regulatory functions in relation to their members;

(t) overseeing or directing any of the matters mentioned above.".

(3) In subsection (5) (definitions) at the appropriate places insert—

""professional actuarial body" means—

(a) the Institute of Actuaries, or

(b) the Faculty of Actuaries in Scotland,

and the "members" of a professional actuarial body include persons who, although not members of the body, are subject to its rules in performing actuarial functions;"

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""regulatory functions", in relation to professional actuarial bodies, means any of the following—

(a) investigatory or disciplinary functions exercised by such bodies in relation to the performance by their members of actuarial functions,

(b) the setting by such bodies of standards in relation to the performance by their members of actuarial functions, and

(c) the determining by such bodies of requirements in relation to the education and training of their members;".

1275 Levy to pay expenses of bodies concerned with actuarial standards etc

(1) Section 17 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27) (levy to pay expenses of bodies concerned with accounting standards etc) is amended in accordance with subsections (2) to (5).

(2) In subsection (3)(a) after "to which" insert " , or persons within subsection (3A) to whom, ".

(3) After subsection (3) insert—

"(3A) The following persons are within this subsection—

(a) the administrators of a public service pension scheme (within the meaning of section 1 of the Pension Schemes Act 1993);

(b) the trustees or managers of an occupational or personal pension scheme (within the meaning of that section).".

(4) After subsection (4)(b) insert—

"(c) make different provision for different cases.".

(5) After subsection (12) insert—

"(13) If a draft of any regulations to which subsection (10) applies would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.".

(6) The above amendments have effect in relation to any exercise of the power to make regulations under section 17 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 after this section comes into force, regardless of when the expenses to be met by the levy in respect of which the regulations are made were incurred.

(7) In Schedule 3 to the Pensions Act 2004 (c. 35) (disclosure of information held by the Pensions Regulator), in the entry relating to the Secretary of State, in the second column, for "or" at the end of paragraph (g) substitute—

"(ga) Section 17 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (levy to pay expenses of bodies concerned with accounting standards, actuarial standards etc), or".

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

1276 Application of provisions to Scotland and Northern Ireland

(1) Section 16 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (grants to bodies concerned with accounting standards etc) is amended as follows.

(2) For subsection (6) (application of section to Scotland) substitute—

"(6) In their application to Scotland, subsection (2)(a) to (t) are to be read as referring only to matters provision relating to which would be outside the legislative competence of the Scottish Parliament.".

(3) In subsection (2) in paragraph (c), after "1985 (c. 6)" insert " or the 1986 Order ".

(4) In subsection (5)—

(a) in the definition of "company" after "1985 (c. 6)" insert " or the 1986 Order ",

(b) in the definition of "subsidiary" after "1985" insert " or Article 4 of the 1986 Order ", and

(c) after that definition insert—

""the 1986 Order" means the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)).".

(5) In section 66 of that Act (extent), in subsection (2) (provisions extending to Northern Ireland, as well as England and Wales and Scotland) for "17" substitute " 16 to 18 ".

Information as to exercise of voting rights by institutional investors

1277 Power to require information about exercise of voting rights

(1) The Treasury or the Secretary of State may make provision by regulations requiring institutions to which this section applies to provide information about the exercise of voting rights attached to shares to which this section applies.

(2) This power is exercisable in accordance with—

section 1278 (institutions to which information provisions apply),
section 1279 (shares to which information provisions apply), and
section 1280 (obligations with respect to provision of information).

(3) In this section and the sections mentioned above—

(a) references to a person acting on behalf of an institution include—

(i) any person to whom authority has been delegated by the institution to take decisions as to any matter relevant to the subject matter of the regulations, and

(ii) such other persons as may be specified; and

(b) "specified" means specified in the regulations.

(4) The obligation imposed by regulations under this section is enforceable by civil proceedings brought by—

(a) any person to whom the information should have been provided, or

(b) a specified regulatory authority.

(5) Regulations under this section may make different provision for different descriptions of institution, different descriptions of shares and for other different circumstances.

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(6) Regulations under this section are subject to affirmative resolution procedure.

Commencement Information

I466 S. 1277 wholly in force at 1.10.2008; s. 1277 not in force at Royal Assent, see s. 1300; s. 1277 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1277 in force at 1.10.2008 by S.I. 2007/3495, **art. 5(1)(g)** (with savings in arts. 7, 12)

1278 Institutions to which information provisions apply

(1) The institutions to which section 1277 applies are—

(a) unit trust schemes within the meaning of the Financial Services and Markets Act 2000 (c. 8) in respect of which an order is in force under section 243 of that Act;

(b) open-ended investment companies incorporated by virtue of regulations under section 262 of that Act;

(c) companies approved for the purposes of **[**F1457Chapter 4 of Part 24 of the Corporation Tax Act 2010**]**(investment trusts);

(d) pension schemes as defined in section 1(5) of the Pension Schemes Act 1993 (c. 48) or the Pension Schemes (Northern Ireland) Act 1993 (c. 49);

(e) undertakings authorised under the Financial Services and Markets Act 2000 to carry on long-term insurance business (that is, the activity of effecting or carrying out contracts of long-term insurance within the meaning of the Financial Services and Markets (Regulated Activities) Order 2001 (S.I. 2001/544);

(f) F1458. . . . . .

(2) Regulations under that section may—

(a) provide that the section applies to other descriptions of institution;

(b) provide that the section does not apply to a specified description of institution.

(3) The regulations must specify by whom, in the case of any description of institution, the duty imposed by the regulations is to be fulfilled.

Textual Amendments

F1457 Words in s. 1278(1)(c) substituted (1.4.2010 with effect in accordance with s. 1184 of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184(1), **Sch. 1 para. 490** (with Sch. 2)

F1458 S. 1278(1)(f) omitted (22.7.2013) by virtue of The Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773), reg. 1, **Sch.1 para. 42**

Commencement Information

I467 S. 1278 wholly in force at 1.10.2008; s. 1278 not in force at Royal Assent, see s. 1300; s. 1278 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1278 in force at 1.10.2008 by S.I. 2007/3495, **art. 5(1)(g)** (with savings in arts. 7, 12)

1279 Shares to which information provisions apply

(1) The shares to which section 1277 applies are shares—

Status: *Point in time view as at 31/12/2020.*
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(a) of a description traded on a specified market, and
(b) in which the institution has, or is taken to have, an interest.

Regulations under that section may provide that the section does not apply to shares of a specified description.

(2) For this purpose an institution has an interest in shares if the shares, or a depositary certificate in respect of them, are held by it, or on its behalf.

A "depositary certificate" means an instrument conferring rights (other than options) —

(a) in respect of shares held by another person, and
(b) the transfer of which may be effected without the consent of that person.

(3) Where an institution has an interest—

(a) in a specified description of collective investment scheme (within the meaning of the Financial Services and Markets Act 2000 (c. 8)), or
(b) in any other specified description of scheme or collective investment vehicle,

it is taken to have an interest in any shares in which that scheme or vehicle has or is taken to have an interest.

(4) For this purpose a scheme or vehicle is taken to have an interest in shares if it would be regarded as having such an interest in accordance with subsection (2) if it was an institution to which section 1277 applied.

Commencement Information

I468 S. 1279 wholly in force at 1.10.2008; s. 1279 not in force at Royal Assent, see s. 1300; s. 1279 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1279 in force at 1.10.2008 by S.I. 2007/3495, **art. 5(1)(g)** (with savings in arts. 7, 12)

1280 Obligations with respect to provision of information

(1) Regulations under section 1277 may require the provision of specified information about—

(a) the exercise or non-exercise of voting rights by the institution or any person acting on its behalf,
(b) any instructions given by the institution or any person acting on its behalf as to the exercise or non-exercise of voting rights, and
(c) any delegation by the institution or any person acting on its behalf of any functions in relation to the exercise or non-exercise of voting rights or the giving of such instructions.

(2) The regulations may require information to be provided in respect of specified occasions or specified periods.

(3) Where instructions are given to act on the recommendations or advice of another person, the regulations may require the provision of information about what recommendations or advice were given.

(4) The regulations may require information to be provided—

(a) in such manner as may be specified, and

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(b) to such persons as may be specified, or to the public, or both.

(5) The regulations may provide—

(a) that an institution may discharge its obligations under the regulations by referring to information disclosed by a person acting on its behalf, and

(b) that in such a case it is sufficient, where that other person acts on behalf of more than one institution, that the reference is to information given in aggregated form, that is—

(i) relating to the exercise or non-exercise by that person of voting rights on behalf of more than one institution, or

(ii) relating to the instructions given by that person in respect of the exercise or non-exercise of voting rights on behalf of more than one institution, or

(iii) relating to the delegation by that person of functions in relation to the exercise or non-exercise of voting rights, or the giving of instructions in respect of the exercise or non-exercise of voting rights, on behalf of more than one institution.

(6) References in this section to instructions are to instructions of any description, whether general or specific, whether binding or not and whether or not acted upon.

Commencement Information

I469 S. 1280 wholly in force at 1.10.2008; s. 1280 not in force at Royal Assent, see s. 1300; s. 1280 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1280 in force at 1.10.2008 by S.I. 2007/3495, **art. 5(1)(g)** (with savings in arts. 7, 12)

Disclosure of information under the Enterprise Act 2002

1281 Disclosure of information under the Enterprise Act 2002

In Part 9 of the Enterprise Act 2002 (c. 40) (information), after section 241 insert—

"**241A Civil proceedings**

(1) A public authority which holds prescribed information to which section 237 applies may disclose that information to any person—

(a) for the purposes of, or in connection with, prescribed civil proceedings (including prospective proceedings) in the United Kingdom or elsewhere, or

(b) for the purposes of obtaining legal advice in relation to such proceedings, or

(c) otherwise for the purposes of establishing, enforcing or defending legal rights that are or may be the subject of such proceedings.

(2) Subsection (1) does not apply to—

(a) information which comes to a public authority in connection with an investigation under Part 4, 5 or 6 of the 1973 Act or under section 11 of the Competition Act 1980;

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(b) competition information within the meaning of section 351 of the Financial Services and Markets Act 2000;

(c) information which comes to a public authority in connection with an investigation under Part 3 or 4 or section 174 of this Act;

(d) information which comes to a public authority in connection with an investigation under the Competition Act 1998 (c. 41).

(3) In subsection (1) "prescribed" means prescribed by order of the Secretary of State.

(4) An order under this section—

(a) may prescribe information, or civil proceedings, for the purposes of this section by reference to such factors as appear to the Secretary of State to be appropriate;

(b) may prescribe for the purposes of this section all information, or civil proceedings, or all information or civil proceedings not falling within one or more specified exceptions;

(c) must be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Information disclosed under this section must not be used by the person to whom it is disclosed for any purpose other than those specified in subsection (1).".

Commencement Information

I470 S. 1281 wholly in force at 6.4.2007; s. 1281 not in force at Royal Assent, see s. 1300; s. 1281 in force for specified purposes at 20.1.2007 and otherwise in force at 6.4.2007 by S.I. 2006/3428, **arts. 3(3)**, **4(1)(f)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

Expenses of winding up

1282 Payment of expenses of winding up

(1) In Chapter 8 of Part 4 of the Insolvency Act 1986 (c. 45) (winding up of companies: provisions of general application), before section 176A (under the heading "*Property subject to floating charge*") insert—

"176ZA **Payment of expenses of winding up (England and Wales)**

(1) The expenses of winding up in England and Wales, so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over any claims to property comprised in or subject to any floating charge created by the company and shall be paid out of any such property accordingly.

(2) In subsection (1)—

(a) the reference to assets of the company available for payment of general creditors does not include any amount made available under section 176A(2)(a);

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(b) the reference to claims to property comprised in or subject to a floating charge is to the claims of—

(i) the holders of debentures secured by, or holders of, the floating charge, and

(ii) any preferential creditors entitled to be paid out of that property in priority to them.

(3) Provision may be made by rules restricting the application of subsection (1), in such circumstances as may be prescribed, to expenses authorised or approved—

(a) by the holders of debentures secured by, or holders of, the floating charge and by any preferential creditors entitled to be paid in priority to them, or

(b) by the court.

(4) References in this section to the expenses of the winding up are to all expenses properly incurred in the winding up, including the remuneration of the liquidator.".

(2) In Chapter 8 of Part 5 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) (winding up of companies: provisions of general application), before Article 150A (under the heading "*Property subject to floating charge*") insert—

"150ZA **Payment of expenses of winding up**

(1) The expenses of winding up, so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over any claims to property comprised in or subject to any floating charge created by the company and shall be paid out of any such property accordingly.

(2) In paragraph (1)—

(a) the reference to assets of the company available for payment of general creditors does not include any amount made available under Article 150A(2)(a);

(b) the reference to claims to property comprised in or subject to a floating charge is to the claims of—

(i) the holders of debentures secured by, or holders of, the floating charge, and

(ii) any preferential creditors entitled to be paid out of that property in priority to them.

(3) Provision may be made by rules restricting the application of paragraph (1), in such circumstances as may be prescribed, to expenses authorised or approved—

(a) by the holders of debentures secured by, or holders of, the floating charge and by any preferential creditors entitled to be paid in priority to them, or

(b) by the Court.

(4) References in this Article to the expenses of the winding up are to all expenses properly incurred in the winding up, including the remuneration of the liquidator.".

Status: *Point in time view as at 31/12/2020.*
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Commencement Information

I471 S. 1282 wholly in force at 6.4.2008; s. 1282 not in force at Royal Assent, see s. 1300; s. 1282 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(3)** (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1282 in force at 6.4.2008 by S.I. 2007/3495, **art. 3(1)(v)** (with savings in arts. 7, 12, Sch. 4 para. 43)

Commonhold associations

1283 Amendment of memorandum or articles of commonhold association

In paragraph 3(1) of Schedule 3 to the Commonhold and Leasehold Reform Act 2002 (c. 15) (alteration of memorandum or articles by commonhold association to be of no effect until altered version registered with Land Registry) for "An alteration of the memorandum or articles of association" substitute " Where a commonhold association alters its memorandum or articles at a time when the land specified in its memorandum is commonhold land, the alteration ".

PART 45

NORTHERN IRELAND

Modifications etc. (not altering text)

C1716 Pts. 45-47 modified (31.12.2020) by Regulation (EC) No. 2157/2001, Art. AAA1(3) (as inserted by The European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1298), regs. 1, **97** (with regs. 140-145) (as amended by S.I. 2020/523, regs. 1(2), 5(a)-(f)); 2020 c. 1, Sch. 5 para. 1(1))

C1717 Pts. 1-39 (except for Pt. 7 and ss. 662-669) and Pts. 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

1284 Extension of Companies Acts to Northern Ireland

(1) The Companies Acts as defined by this Act (see section 2) extend to Northern Ireland.

(2) The Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)), the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (S.I. 1986/1035 (N.I. 9)) and Part 3 of the Companies (Audit, Investigations and Community Enterprise) Order 2005 (S.I. 2005/1967 (N.I. 17)) shall cease to have effect accordingly.

Commencement Information

I472 S. 1284 wholly in force at 1.10.2009; s, 1284 not in force at Royal Assent : see s. 1300(1); s. 1284 in force for certain purposes at 1.1.2007 by S.I. 2006/3428, **art. 2(2)** (subject to Sch. 1 with arts. 6, 8, Sch. 5); s. 1284 in force for certain other purposes at 20.1.2007,20.1.2007 and 6.4.2007 by S.I. 2006/3428, **art. 3(1)(2)**{art. 4(3)} (subject to Sch. 1 with arts. 6, 8, Sch. 5); s. 1284 otherwise in force

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at 1.10.2009 by S.I. 2008/2860, **art. 3(z)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1285 Extension of GB enactments relating to [F1459UK Societas]

(1) The enactments in force in Great Britain relating to **[**F1460UK Societas**]** extend to Northern Ireland.

(2) The following enactments shall cease to have effect accordingly—

(a) the European Public Limited-Liability Company Regulations (Northern Ireland) 2004 (SR 2004/417), and

(b) the European Public Limited-Liability Company (Fees) Regulations (Northern Ireland) 2004 (SR 2004/418).

[F1461(3) In this section "UK Societas" means a United Kingdom Societas within the meaning of Council Regulation 2157/2001/EC of 8 October 2001 on the Statute for a European Company.**]**

Textual Amendments

F1459 Words in s. 1285 heading substituted (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 3 para. 20(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1460 Words in s. 1285(1) substituted (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 3 para. 20(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1461 S. 1285(3) substituted (31.12.2020) by The International Accounting Standards and European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/685), reg. 1(2), **Sch. 3 para. 20(b)**; 2020 c. 1, Sch. 5 para. 1(1)

1286 Extension of GB enactments relating to certain other forms of business organisation

(1) The enactments in force in Great Britain relating to—

(a) limited liability partnerships,

(b) limited partnerships,

(c) open-ended investment companies, F1462...

(d) European Economic Interest Groupings, **[**F1463and**]**

[F1464(e) UK Economic Interest Groupings,**]**

extend to Northern Ireland.

(2) The following enactments shall cease to have effect accordingly—

(a) the Limited Liability Partnerships Act (Northern Ireland) 2002 (c. 12 (N. I.));

(b) the Limited Partnerships Act 1907 (c. 24) as it formerly had effect in Northern Ireland;

(c) the Open-Ended Investment Companies Act (Northern Ireland) 2002 (c. 13 (N.I.));

(d) the European Economic Interest Groupings Regulations (Northern Ireland) 1989 (SR 1989/216).

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F1462 Word in s. 1286(1)(c) omitted (31.12.2020) by virtue of The European Economic Interest Grouping (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1299), regs. 1, **62(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F1463 Word in s. 1286(1)(d) inserted (31.12.2020) by The European Economic Interest Grouping (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1299), regs. 1, **62(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F1464 S. 1286(1)(e) inserted (31.12.2020) by The European Economic Interest Grouping (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1299), regs. 1, **62(3)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I473 S. 1286 wholly in force at 1.10.2009; s. 1286 not in force at Royal Assent, see s. 1300; s. 1286(1)(a)(2)(a) in force for specified purposes at 1.10.2008 by S.I. 2008/1886, **art. 2** (with effect as mentioned in art. 7(3)) (with arts. 6, 7); s. 1286 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(z)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1287 Extension of enactments relating to business names

(1) The provisions of Part 41 of this Act (business names) extend to Northern Ireland.

(2) The Business Names (Northern Ireland) Order 1986 (S.I. 1986/1033 (N.I. 7)) shall cease to have effect accordingly.

PART 46

GENERAL SUPPLEMENTARY PROVISIONS

Modifications etc. (not altering text)

C1718 Pts. 1-39 (except for Pt. 7 and ss. 662-669) and Pts. 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

C1719 Pt. 46 applied (6.4.2007) (The Companies Acts (Unregistered Companies) Regulations 2007 (S.I. 2007/318), reg. 3, **Sch.** (with reg. 6)

Regulations and orders

1288 Regulations and orders: statutory instrument

Except as otherwise provided, regulations and orders under this Act shall be made by statutory instrument.

Modifications etc. (not altering text)

C1720 Ss. 1288-1290 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 56** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)

Status: *Point in time view as at 31/12/2020.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Companies Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

C1721 Ss. 1288-1290 applied (with modifications) (9.7.2009 for certain purposes otherwise 1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2(2), **80**

1289 Regulations and orders: negative resolution procedure

Where regulations or orders under this Act are subject to "negative resolution procedure" the statutory instrument containing the regulations or order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C1722 Ss. 1288-1290 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 56** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)

C1723 Ss. 1288-1290 applied (with modifications) (9.7.2009 for certain purposes otherwise 1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2(2), **80**

1290 Regulations and orders: affirmative resolution procedure

Where regulations or orders under this Act are subject to "affirmative resolution procedure" the regulations or order must not be made unless a draft of the statutory instrument containing them has been laid before Parliament and approved by a resolution of each House of Parliament.

Modifications etc. (not altering text)

C1724 Ss. 1288-1290 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 56** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)

C1725 Ss. 1288-1290 applied (with modifications) (9.7.2009 for certain purposes otherwise 1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2(2), **80**

1291 Regulations and orders: approval after being made

(1) Regulations or orders under this Act that are subject to "approval after being made"—

(a) must be laid before Parliament after being made, and

(b) cease to have effect at the end of 28 days beginning with the day on which they were made unless during that period they are approved by resolution of each House.

(2) In reckoning the period of 28 days 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.

(3) The regulations or order ceasing to have effect does not affect—

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(a) anything previously done under them or it, or
(b) the making of new regulations or a new order.

1292 Regulations and orders: supplementary

(1) Regulations or orders under this Act may—
(a) make different provision for different cases or circumstances,
(b) include supplementary, incidental and consequential provision, and
(c) make transitional provision and savings.

(2) Any provision that may be made by regulations under this Act may be made by order; and any provision that may be made by order under this Act may be made by regulations.

(3) Any provision that may be made by regulations or order under this Act for which no Parliamentary procedure is prescribed may be made by regulations or order subject to negative or affirmative resolution procedure.

(4) Any provision that may be made by regulations or order under this Act subject to negative resolution procedure may be made by regulations or order subject to affirmative resolution procedure.

Subordinate Legislation Made

P1 S. 1292 power partly exercised: 1.10.2007, 1.11.2007, 15.12.2007, and 1.10.2008 appointed for specified provisions by {S.I. 2007/2194}, arts. 2-5 (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)
S. 1292 power partly exercised: different dates appointed for specified provisions by {S.I. 2007/3495}, arts. 2-5 (with arts. 7, 12)

P2 S. 1292(1) power partly exercised: 6.4.2007 appointed for specified provisions by {S.I. 2007/1093}, arts. 2, 5 (with art. 11 and subject to transitional adaptations in Sch. 1)

Modifications etc. (not altering text)

C1726 S. 1292 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 57** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)

C1727 S. 1292 applied (with modifications) (9.7.2009 for certain purposes otherwise 1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2(2), **81**

[F1465 "Bank of England"

Textual Amendments

F1465 S. 1292A and crossheading inserted (1.3.2017) by The Bank of England and Financial Services (Consequential Amendments) Regulations 2017 (S.I. 2017/80), reg. 1, **Sch. para. 18**

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1292A. "Bank of England"

In this Act, except in section 796, references to the Bank of England do not include the Bank acting in its capacity as the Prudential Regulation Authority.**]**

Meaning of "enactment"

1293 Meaning of "enactment"

In this Act, unless the context otherwise requires, "enactment" includes—

(a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978 (c. 30),

[F1466(aa) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales,**]**

(b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament, and

(c) an enactment contained in, or in an instrument made under, Northern Ireland legislation within the meaning of the Interpretation Act 1978.

Textual Amendments

F1466 S. 1293(aa) inserted (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), **ss. 90(4)**, 164(3)(g)(iii)

Consequential and transitional provisions

1294 Power to make consequential amendments etc

(1) The Secretary of State or the Treasury may by order make such provision amending, repealing or revoking any enactment to which this section applies as they consider necessary or expedient in consequence of any provision made by or under this Act.

(2) This section applies to—

(a) any enactment passed or made before the passing of this Act,

(b) any enactment contained in this Act or in subordinate legislation made under it, and

(c) any enactment passed or made before the end of the session after that in which this Act is passed.

(3) Without prejudice to the generality of the power conferred by subsection (1), orders under this section may—

(a) make provision extending to other forms of organisation any provision made by or under this Act in relation to companies, or

(b) make provision corresponding to that made by or under this Act in relation to companies,

in either case with such adaptations or other modifications as appear to the Secretary of State or the Treasury to be necessary or expedient.

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(4) The references in subsection (3) to provision made by this Act include provision conferring power to make provision by regulations, orders or other subordinate legislation.

(5) Amendments and repeals made under this section are additional, and without prejudice, to those made by or under any other provision of this Act.

(6) Orders under this section are subject to affirmative resolution procedure.

Subordinate Legislation Made

P3 S. 1294 power partly exercised: 1.10.2007, 1.11.2007, 15.12.2007, and 1.10.2008 appointed for specified provisions by {S.I. 2007/2194}, arts. 2-5 (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)

P4 S. 1294(1) power partly exercised: 6.4.2007 appointed for specified provisions by {S.I. 2007/1093}, arts. 2, 5 (with art. 11 and subject to transitional adaptations in Sch. 1)

1295 Repeals

The enactments specified in Schedule 16, which include enactments that are no longer of practical utility, are repealed to the extent specified.

Commencement Information

I474 S. 1295 partly in force; s. 1295 not in force at Royal Assent, see s. 1300; s. 1295 in force for specified purposes at 1.1.2007, 20.1.2007 and 6.4.2007 by S.I. 2006/3428, **arts. 4(2)**, **7**, Schs. 2-4 (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5); s. 1295 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 5**, Sch. 2 (with art. 11(1)); s. 1295 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 8**, Sch. 2 (with saving in art. 12); s. 1295 in force for further specified purposes at. 6.4.2008 by S.I. 2007/3495 {art. 8(a)}, Sch. 2 (with savings in arts. 7, 12 and Sch. 4); s. 1295 in force for further specified purposes at 1.10.2008 by S.I. 2007/3495, **arts. 5(2)**, **8(b)**, Sch. 3 (with savings in arts. 7, 12, Sch. 4); s. 1295 in force for further specified purposes at 1.4.2008 by S.I. 2008/674, **art. 3** (with art. 6); s. 1295 in force for further specified purposes at 1.10.2008 by S.I. 2008/1886, **art. 2** (with arts. 6, 7); s. 1295 in force for further specified purposes at 1.10.2009 by S.I. 2008/2860, **art. 4** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

1296 Power to make transitional provision and savings

(1) The Secretary of State or the Treasury may by order make such transitional provision and savings as they consider necessary or expedient in connection with the commencement of any provision made by or under this Act.

(2) An order may, in particular, make such adaptations of provisions brought into force as appear to be necessary or expedient in consequence of other provisions of this Act not yet having come into force.

(3) Transitional provision and savings made under this section are additional, and without prejudice, to those made by or under any other provision of this Act.

(4) Orders under this section are subject to negative resolution procedure.

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Subordinate Legislation Made

P5 S. 1296 power partly exercised: 1.10.2007, 1.11.2007, 15.12.2007, and 1.10.2008 appointed for specified provisions by {S.I. 2007/2194}, arts. 2-5 (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3)
S. 1296 power partly exercised: different dates appointed for specified provisions by {S.I. 2007/3495}, arts. 2-5 (with arts. 7, 12)

P6 S. 1296(1)(2) power partly exercised: 6.4.2007 appointed for specified provisions by {S.I. 2007/1093}, arts. 2, 5 (with art. 11 and subject to transitional adaptations in Sch. 1)

P7 S. 1296(1) power partly exercised: 30.9.2007 appointed for specified provisions and purposes by {S.I. 2007/2607}, art. 2

1297 Continuity of the law

(1) This section applies where any provision of this Act re-enacts (with or without modification) an enactment repealed by this Act.

(2) The repeal and re-enactment does not affect the continuity of the law.

(3) Anything done (including subordinate legislation made), or having effect as if done, under or for the purposes of the repealed provision that could have been done under or for the purposes of the corresponding provision of this Act, if in force or effective immediately before the commencement of that corresponding provision, has effect thereafter as if done under or for the purposes of that corresponding provision.

(4) Any reference (express or implied) in this Act or any other enactment, instrument or document to a provision of this Act shall be construed (so far as the context permits) as including, as respects times, circumstances or purposes in relation to which the corresponding repealed provision had effect, a reference to that corresponding provision.

(5) Any reference (express or implied) in any enactment, instrument or document to a repealed provision shall be construed (so far as the context permits), as respects times, circumstances and purposes in relation to which the corresponding provision of this Act has effect, as being or (according to the context) including a reference to the corresponding provision of this Act.

(6) This section has effect subject to any specific transitional provision or saving contained in this Act.

(7) References in this section to this Act include subordinate legislation made under this Act.

(8) In this section "subordinate legislation" has the same meaning as in the Interpretation Act 1978 (c. 30).

Modifications etc. (not altering text)

C1728 S. 1297 modified (6.4.2007) by The Companies Act 2006 (Commencement No. 2, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/1093), **art. 10** (with art. 11(1))

C1729 S. 1297 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **82**

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PART 47

FINAL PROVISIONS

Modifications etc. (not altering text)

C1730 Pts. 1-39 (except for Pt. 7 and ss. 662-669) and Pts. 45-47 extended (12.5.2011) by The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (S.I. 2011/1265), art. 5(1), **Sch. 1 para. 2**

C1731 Pt. 47 applied (6.4.2007) by The Companies Acts (Unregistered Companies) Regulations 2007 (S.I. 2007/318), reg. 3, **Sch** (with reg. 6)

1298 Short title

The short title of this Act is the Companies Act 2006.

1299 Extent

Except as otherwise provided (or the context otherwise requires), the provisions of this Act extend to the whole of the United Kingdom.

1300 Commencement

(1) The following provisions come into force on the day this Act is passed—

(a) Part 43 (transparency obligations and related matters), except the amendment in paragraph 11(2) of Schedule 15 of the definition of "regulated market" in Part 6 of the Financial Services and Markets Act 2000 (c. 8),

(b) in Part 44 (miscellaneous provisions)—

section 1274 (grants to bodies concerned with actuarial standards etc), and

section 1276 (application of provisions to Scotland and Northern Ireland),

(c) Part 46 (general supplementary provisions), except section 1295 and Schedule 16 (repeals), and

(d) this Part.

(2) The other provisions of this Act come into force on such day as may be appointed by order of the Secretary of State or the Treasury.

Subordinate Legislation Made

P8 S. 1300(2) power partly exercised: different dates appointed for specified provisions by {S.I. 2006/3428}, arts. 2-4, 7, Schs. 2-4 (with arts. 6, 8, Sch. 5 and subject to art. 5, Sch. 1 (as amended by S.I. 2007/3495, **art. 10** and revoked (as to Sch. 1) by S.I. 2008/2860, **art. 6** (subject to Sch. 2 of that Order)));
6.4.2007 appointed for specified provisions by {S.I. 2007/1093}, arts. 2, 5 (with art. 11 and subject to transitional adaptations in Sch. 1 (which Sch. 1 was revoked by S.I. 2008/2860, **art. 6** (subject to Sch. 2 of that Order));
1.10.2007, 1.11.2007, 15.12.2007, and 1.10.2008 appointed for specified provisions by {S.I. 2007/2194}, arts. 2-5 (with saving in art. 12 and subject to transitional adaptations specified in Sch. 1 and with transitional provisions and savings in Sch. 3 (as amended by S.I.s 2007/2607, art. 4,

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2007/2974, reg. 4(5) and 2007/3495, art. 10, S. I. 2008/674, Sch. 3 paras. 1, **2**, S.I. 2008/2860, art. 6 (which art. 6 revokes Sch. 1 (subject to Sch. 2 of that Order), S.I. 2009/1632, **art. 22**));
30.9.2007 appointed for specified provisions by {S.I. 2007/2607}, art. 2;
different dates appointed for specified provisions by {S.I. 2007/3495}, arts. 2-5 (subject to transitional adaptations in Sch. 1 and with transitional provisions and savings in arts. 7, 12, Schedule 4) (as amended by S.I. 2008/674, **Sch. 3 paras. 3-7**, S.I. 2008/1886, art. 8, S.I. 2008/2860, **art. 6** (which art. 6 revokes Sch. 1 (subject to Sch. 2 of that Order)));
1.4.2008 appointed for specified provisions by {S.I. 2008/674}, art. 3 (with savings in arts. 4, 6, Sch. 2) (as amended by S.I. 2008/2860, **art. 6**)
1.10.2008 appointed for specified provisions by {S.I. 2008/1886}, art. 2 (with arts. 3-7 (as amended by S.I. 2008/2860, **art. 6**))
1.10.2009 appointed for specified provisions by {S.I. 2008/2860}; arts. 3, 4 (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18, **Sch**, S.I. 2009/1941, arts. 13(1), S.I. 2009/2476, **art. 2**, S.I. 2011/1265, art. 3)

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