



Companies Act 2006

2006 CHAPTER 46

PART 16

AUDIT

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.

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- (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 (default power of Secretary of State).

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

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, the Secretary of State may appoint one or more persons to fill the vacancy.
- (2) Where subsection (2) of that section 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.

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.
- (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.

- (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.

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.

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

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- (b) in accordance with section 490 (default power of Secretary of State).

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, the Secretary of State may appoint one or more persons to fill the vacancy.
- (2) Where subsection (2) of that section 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.

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

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.

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 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.

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;

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- (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 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.