



# Companies Act 2006

## 2006 CHAPTER 46

### PART 16 U.K.

#### AUDIT

### CHAPTER 4 U.K.

#### REMOVAL, RESIGNATION, ETC OF AUDITORS

##### *Failure to re-appoint auditor*

#### **514 Failure to re-appoint auditor: special procedure required for written resolution U.K.**

- (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”) whose term of office has expired, or is to expire, at the end of the period for appointing auditors.
- (2) The following provisions apply if—
  - (a) no period for appointing auditors has ended since the outgoing auditor ceased to hold office, or
  - (b) such a period has ended and an auditor or auditors should have been appointed but were not.
- (3) 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.

*Status: Point in time view as at 06/04/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Companies Act 2006, Cross Heading: Failure to re-appoint auditor. (See end of Document for details)*

- (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.

**Modifications etc. (not altering text)**

- C1** 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 U.K.**

- (1) This section applies to a resolution at a general meeting of a company whose effect would be to appoint a person as auditor in place of a person (the “outgoing auditor”) whose term of office has ended, or is to end—
- (a) in the case of a private company, at the end of the period for appointing auditors;
  - (b) in the case of a public company, at the end of the next accounts meeting.
- (2) Special notice is required of such a resolution if—
- (a) in the case of a private company—
    - (i) no period for appointing auditors has ended since the outgoing auditor ceased to hold office, or
    - (ii) such a period has ended and an auditor or auditors should have been appointed but were not;
  - (b) in the case of a public company—
    - (i) there has been no accounts meeting of the company since the outgoing auditor ceased to hold office, or
    - (ii) there has been an accounts meeting at which an auditor or auditors should have been appointed but were not.

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*Status: Point in time view as at 06/04/2008.*

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- (3) On receipt of notice of such an intended resolution 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.

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.

**Modifications etc. (not altering text)**

- C2** 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)**)
- C3** 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 06/04/2008.

**Changes to legislation:**

There are currently no known outstanding effects for the Companies Act 2006, Cross Heading:  
Failure to re-appoint auditor.