



Companies Act 2006

2006 CHAPTER 46

PART 42

STATUTORY AUDITORS

Modifications etc. (not altering text)

- C1** Pt. 42 modified (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007](#) (S.I. 2007/3494), [reg. 43](#)
- C2** 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Statutory Auditors \(Delegation of Functions etc\) Order 2008](#) (S.I. 2008/496), [art. 4](#) (which amending S.I. was revoked (2.7.2012) by [S.I. 2012/1741](#), [art. 6](#))
- C3** 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\(5\)](#)
- C4** 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—

Status: Point in time view as at 29/06/2008. This version of this part contains provisions that are not valid for this point in time.

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) 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),
 - (c) a person appointed as auditor of an insurer that is a friendly society under section 72 of or Schedule 14 to the Friendly Societies Act 1992 (c. 40),
 - (d) ^{F1}
 - (e) a person appointed as auditor for the purposes of regulation 3 of the Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2004 (S.I. 2004/3219) or appointed to report on the “aggregate accounts” within the meaning of those Regulations,
 - [^{F2}(f) a person appointed as auditor of an insurance undertaking for the purposes of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008,]
 - [^{F3}(g) a person appointed as auditor of a bank for the purposes of the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008,]
 - (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)—
- “bank” means a person who—
 - (a) is a credit institution within the meaning given by Article 4.1(a) of Directive [2006/48/EC](#) of the European Parliament and of the Council relating to the taking up and pursuit of the business of credit institutions, and
 - (b) is a company or a firm as defined in Article 48 of the Treaty establishing the European Community;
 - “friendly society” means a friendly society within the meaning of the Friendly Societies Act 1992 (c. 40);
 - ^{F4}
 - “insurer” means a person who is an insurance undertaking within the meaning given by Article 2.1 of Council Directive [1991/674/EEC](#) on the annual accounts and consolidated accounts of insurance undertakings;
 - “prescribed” means prescribed, or of a description prescribed, by order made by the Secretary of State for the purposes of subsection (1)(h).
- (4) An order under this section is subject to negative resolution procedure.

Textual Amendments

- F1** 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\(1\)\(b\)\(i\)](#)
- F2** S. 1210(1)(f) substituted (6.4.2008) by [The Insurance Accounts Directive \(Miscellaneous Insurance Undertakings\) Regulations 2008](#) (S.I. 2008/565), [reg. 15\(1\)\(a\)](#)
- F3** S. 1210(1)(g) substituted (6.4.2008) by [The Bank Accounts Directive \(Miscellaneous Banks\) Regulations 2008](#) (S.I. 2008/567), [reg. 14](#)

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F4 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)

Commencement Information

II 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.
- (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.

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- (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 one-tenth of the statutory maximum 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.

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.
- (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—

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- (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)

- C5** S. 1214 applied (15.12.2007) by [The Companies \(Cross-Border Mergers\) Regulations 2007 \(S.I. 2007/2974\)](#), [reg. 9\(8\)\(b\)](#)
- C6** 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

- I2** 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.
- (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 one-tenth of the statutory maximum for each day on which the act or the failure continues.

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- (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).

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
 - (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)

- C7** 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**)

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- C8** 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))
- C9** 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.)
- C10** 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^{F5} . . . because they are members of that body^{F5}

- [^{F6}(1A) The rules referred to in paragraphs 9(3)(b) (confidentiality of information) and 10C(3) (a) and (b) (bar on appointment as director or other officer) 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 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

- F5** 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)**
- F6** S. 1217(1A) inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007](#) (S.I. 2007/3494), **reg. 4(3)**

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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;
 - (d) the obligations imposed on the body by or by virtue of this Part.
- (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,
 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.
- (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).

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),^[F7] or
 - (e) ^{F8}
 - (f) subject to any direction under section 1221(5), he is regarded for the purposes of this Chapter as holding an approved ^[F9]third 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 approves his qualification as an appropriate qualification for the purposes of this Chapter.
- (3) The Secretary of State may approve a qualification under subsection (2)(c) only if he is satisfied that, at the time the qualification was awarded, the body concerned had adequate arrangements to ensure that the qualification was awarded only to persons educated and trained to a standard equivalent to that required, at that time, in the case of a recognised professional qualification under Part 2 of the Companies Act 1989 (c. 40) (eligibility for appointment as company auditor).

Textual Amendments

- F7** 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)**
- F8** 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)**
- F9** 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)**

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.

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1221 Approval of [^{F10}third 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 [^{F10}third country] qualification—
- (a) persons who are qualified to audit accounts under the law of a specified [^{F11}third country] , or
 - (b) persons who hold a specified professional qualification in accountancy obtained in a specified [^{F11}third country] .

[^{F12}(1A) A declaration under subsection (1)(a) or (b) must be expressed to be subject to the requirement that any person to whom the declaration relates must pass an aptitude test in accordance with subsection (7A), unless an aptitude test is not required (see subsection (7B)).]

- (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 [^{F11}third country] , 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 subsection (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 [^{F11}third 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.

(5) The Secretary of State may direct that persons holding an approved [^{F10}third 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 [^{F10}third 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 [^{F11}third country] after such date as he may specify, or
 - (b) persons obtaining the specified professional qualification after such date as he may specify.

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- [^{F13}(7A) An aptitude test required for the purposes of subsection (1A)—
- (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.
- (7B) No aptitude test is required for the purposes of subsection (1A) if the subjects that are covered by a recognised professional qualification and the knowledge of which is essential for the pursuit of the profession of statutory auditor are covered by the professional qualification already held by the person.]
- (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) ^{F14}

Textual Amendments

- F10** Words in s. 1221 substituted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 6\(2\)](#)
- F11** 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\(3\)](#)
- F12** S. 1221(1A) inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 6\(4\)](#)
- F13** S. 1221(7A)(7B) inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 6\(5\)](#)
- F14** 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.

Status: Point in time view as at 29/06/2008. This version of this part contains provisions that are not valid for this point in time.

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

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.

[^{F15}1223A] Notification of matters relevant to other EEA States

- (1) A recognised supervisory body must notify the Secretary of State of—
 - (a) any withdrawal of a notifiable person's eligibility for appointment as a statutory auditor; and
 - (b) the reasons for the 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 any other EEA State or part of an EEA State, implementing the Audit Directive, and
 - (b) the act or omission constituting that contravention took place on the territory of an EEA State other than the United Kingdom.
- (3) In this section “notifiable person” means a member of the recognised supervisory body in question—
 - (a) who is also an EEA auditor; and
 - (b) in respect of whom the EEA competent authority is not the recognised supervisory body itself.]

Textual Amendments

F15 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\(3\)](#)))

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.

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- (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.

[^{F16}1224] **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 or sections 522 to 524 (notification to appropriate audit authority of resignation or removal of auditor).
- (2) This section applies to—
 - (a) a recognised supervisory body,
 - (b) a recognised qualifying body,
 - (c) a body performing functions for the purposes of arrangements within paragraph 23(1) (independent monitoring of certain audits) or paragraph 24(1) (independent investigation of public interest cases) of Schedule 10,
 - (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.
- (5) Subsection (3) does not apply to—
 - (a) the disclosure by an EEA competent authority of information disclosed to it by the body in reliance on subsection (4);
 - (b) the disclosure of such information by anyone who has obtained it directly or indirectly from an EEA competent authority.
- (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.

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- (7) Nothing in this section authorises the making of a disclosure in contravention of the Data Protection Act 1998.]

Textual Amendments

F16 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)**)

[^{F16}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

F16 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

1225 Compliance orders

- (1) If at any time it appears to the Secretary of State—
- (a) in the case of a recognised supervisory body, that any requirement of Schedule 10 is not satisfied,
 - (b) in the case of a recognised professional qualification, that any requirement of Schedule 11 is not satisfied, or
 - (c) that a recognised supervisory body or a recognised qualifying body has failed to comply with an obligation to which it is subject under or by virtue of this Part,
- he may, instead of revoking the relevant recognition order, make an application to the court under this section.
- (2) If on an application under this section the court decides that the requirement in question is not satisfied or, as the case may be, that the body has failed to comply with the

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obligation in question, it may order the body to take such steps as the court directs for securing that the requirement is satisfied or that the obligation is complied with.

(3) In this section “the court” means the High Court or, in Scotland, the Court of Session.

VALID FROM 02/07/2012

[^{F17}1225A] 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

F17 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

VALID FROM 02/07/2012

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—
 - (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)—

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- (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

- F17** 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

VALID FROM 02/07/2012

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.
- (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.

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(3) In this section, “the court” means the High Court or, in Scotland, the Court of Session.

Textual Amendments

F17 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

VALID FROM 02/07/2012

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

F17 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

VALID FROM 02/07/2012

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

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- (b) must not be less than 21 days.
- (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

F17 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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VALID FROM 02/07/2012

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—
 - (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.

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(10) In this section “the court” means the High Court or, in Scotland, the Court of Session.

Textual Amendments

F17 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

VALID FROM 02/07/2012

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

F17 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,

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- (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).

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

- I3** 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.

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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.
- [^{F18}(2) The Independent Supervisor must discharge that duty by—
- (a) establishing supervision arrangements itself, or
 - (b) entering into supervision arrangements with one or more 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 [^{F19}established by the Independent Supervisor or] entered into by the Independent Supervisor with a body, for the purposes of this section, in accordance with which [^{F20}the Independent Supervisor or] the body does ^{F21}. . . 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.
- [^{F22}(3A) The requirements of paragraphs 9 to 10A and 12 to 15 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 [^{F23}establishes or] enters into under this section.
- [^{F24}(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.

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- (7) Any fine received by the Independent Supervisor under supervision arrangements is to be paid into the Consolidated Fund.

Textual Amendments

- F18** 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\(2\)](#)
- F19** 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\(3\)\(a\)](#)
- F20** 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\(3\)\(b\)](#)
- F21** 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\(3\)\(c\)](#)
- F22** S. 1229(3A) inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 9\(4\)](#)
- F23** 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\(5\)](#)
- F24** S. 1229(5A) inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 9\(6\)](#)

1230 Duties of Auditors General in relation to supervision arrangements

- (1) Each Auditor General must—
- comply with any standards of the kind mentioned in subsection (3)(a) or (b) of section 1229 determined under the supervision arrangements,
 - 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
 - comply with any decision of the kind mentioned in subsection (3)(f) of that section made under the supervision arrangements.

[^{F25}(2) Each Auditor General must—

- if the Independent Supervisor has established supervision arrangements, pay to the Independent Supervisor;
- 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—

- in the case of expenditure of the Comptroller and Auditor General, to be regarded as expenditure of the National Audit Office for the purposes of section 4(1) of the National Audit Act 1983 (c. 44);
- 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)).

(4) In this section “the supervision arrangements” means the arrangements [^{F26}established or] entered into under section 1229.

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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

- F25** S. 1230(2) substituted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 10\(2\)](#)
- F26** 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;
 - (d) the Assembly First Secretary in 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).
- (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.

Commencement Information

- I4** 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](#))

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.

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- (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).
- (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

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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.
- (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.

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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

- I5** [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;”.

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,

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- (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,^{F27} . . .
 - (e) in the case of a firm eligible for appointment as a statutory auditor by virtue of Chapter 2^{F28} . . . , the information mentioned in subsection (3),^{F29} 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,
 - (e) any person with whom arrangements are made by one or more recognised supervisory bodies, or by any body designated by order under section 1252, with respect to the keeping of the register, or
 - (f) the Independent Supervisor appointed under section 1228.
- (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^{F30} . . . , 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.

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- (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

- F27** 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\(2\)](#)
- F28** 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\(3\)](#)
- F29** 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\(4\)](#)
- F30** 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)

- C11** 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

- I6** 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](#))

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—
- the person's ownership and governance,
 - the person's internal controls with respect to the quality and independence of its audit work,
 - the person's turnover, and
 - the audited persons of whom the person has acted as statutory auditor.
- (2) Regulations under this section may—
- impose such obligations as the Secretary of State thinks fit on persons eligible for appointment as a statutory auditor;
 - 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.

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Modifications etc. (not altering text)

- C12** 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

- I7** 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](#))

CHAPTER 5

REGISTERED THIRD COUNTRY AUDITORS

Introductory

1241 [^{F31}Meaning of “registered third country auditor” and “UK-traded non-EEA company”]

- (1) In this Part—

^{F32}

“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) [^{F33}In this Part “UK-traded non-EEA company” means a body corporate—]
- (a) which is incorporated or formed under the law of [^{F34}a third country] ,
 - (b) whose transferable securities are admitted to trading on a regulated market situated or operating in the United Kingdom, 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.

- (3) For this purpose—

“regulated market” has the meaning given by Article 4.1(14) of Directive [2004/39/EC](#) of the European Parliament and of the Council on markets in financial instruments;

“transferable securities” has the meaning given by Article 4.1(18) of that Directive.

- (4) An order under this section is subject to negative resolution procedure.

Textual Amendments

- F31** S. 1241 heading substituted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 31\(2\)](#)
- F32** 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\(3\)](#)

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- F33** 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\(4\)\(a\)](#)
- F34** 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\(4\)\(b\)](#)

Commencement Information

- I8** 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 [^{F35}who audits the accounts of a UK-traded non-EEA company] must participate in—
- arrangements within paragraph 1 of Schedule 12 (arrangements for independent monitoring of audits ^{F36}. . .), and
 - arrangements within paragraph 2 of that Schedule (arrangements for independent investigation for disciplinary purposes of public interest cases).
- (2) A registered third country auditor must—
- take such steps as may be reasonably required of it to enable its performance of [^{F37}audits of accounts of UK-traded non-EEA companies] to be monitored by means of inspections carried out under the arrangements mentioned in subsection (1)(a), and
 - 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 a particular registered third country auditor or class of registered third country auditors.

Textual Amendments

- F35** 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](#))
- F36** 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](#))
- F37** 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](#))

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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.

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.

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- (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

- I9** 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—

“(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—

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- (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.
- (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 one-tenth of level 5 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.

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).

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 section 154(1) of the Criminal Justice Act 2003 (c. 44), 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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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

I10 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**)

^{F38}Duty of Secretary of State to report on inspections

Textual Amendments

F38 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 paragraph 13(9) of Schedule 10.]

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

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- (b) subject to section 1253, a body (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 [^{F39}third 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,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.

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- (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

F39 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

I11 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
 - (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 [^{F40}paragraph 21 to 22B, 23(1) or 24(1) of Schedule 10] or paragraph 1 or 2 of Schedule 12.

Textual Amendments

F40 Words in s. 1253(5) substituted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 13](#)

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Commencement Information

- I12** 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**)

[^{F41}Cooperation with foreign competent authorities

Textual Amendments

- F41** 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 an EEA competent authority or 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.

1253B Requests from EEA competent authorities

- (1) The Secretary of State must take all necessary steps to—
 - (a) ensure that an investigation is carried out, or
 - (b) provide any other assistance or information,if requested to do so by an EEA competent authority in accordance with Article 36 of the Audit Directive (cooperation between Member State authorities).
- (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 the EEA competent authority under subsection (1)(b), or
 - (b) notify the EEA competent authority which made the request 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.

1253C Notification to competent authorities of other EEA States

- (1) The Secretary of State must notify the relevant EEA competent authority if he receives notice from a recognised supervisory body under section 1223A(1) (notification of

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withdrawal of eligibility for appointment) of the withdrawal of a person's eligibility for appointment as a statutory auditor.

- (2) In subsection (1) “the relevant EEA competent authority” means the EEA competent authority which has approved the person concerned in accordance with the Audit Directive to carry out audits of annual accounts or consolidated accounts required by Community law.
- (3) The notification under subsection (1) must include the name of the person concerned and the reasons for the withdrawal of his eligibility for appointment as statutory auditor.
- (4) The Secretary of State must notify the relevant EEA competent authority if he has reasonable grounds for suspecting that—
 - (a) a person has contravened the law of the United Kingdom, or any other EEA State or part of an EEA State, implementing the Audit Directive, and
 - (b) the act or omission constituting that contravention took place on the territory of an EEA State other than the United Kingdom.
- (5) In subsection (4) “the relevant EEA competent authority” means the EEA competent authority for the EEA State 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.]

Transfer of papers to third countries

1253D Restriction on transfer of audit working papers to third countries

Audit working papers must not be transferred to a third country competent authority by any person other than a statutory auditor acting in accordance with rules imposed under paragraph 16A of Schedule 10 (transfer of papers to third countries).

VALID FROM 15/11/2010

^{F42} **Transfer by Secretary of State**

^{F43} **1253DA**

- (1) The Secretary of State may transfer audit working papers 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 audit working papers.
- (3) The second condition is that the audit working papers 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.

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- (4) The third condition is that the authority has entered into arrangements with the Secretary of State in accordance with section 1253E.

Textual Amendments

- F42** 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)**))
- F43** 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**

VALID FROM 15/11/2010

1253DB Transfer by statutory auditor with approval of Secretary of State

- (1) A statutory auditor may transfer audit working papers 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 audit working papers 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 audit working papers.
- (4) The second condition is that the audit working papers 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

- F42** 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)**))
- F43** 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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VALID FROM 15/11/2010

1253DC Transfer by statutory auditor for purposes of investigation of auditor

A statutory auditor may transfer audit working papers 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

- F42** 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)**))
- F43** 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**

VALID FROM 15/11/2010

1253DD Agreement of EEA 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 audit working papers which relate to the audit of the consolidated accounts of a group, and
 - (b) the audit working papers that are the subject of the request—
 - (i) have been created by the auditor of a subsidiary that is located in another EEA State 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 EEA competent authority responsible for the auditor of the subsidiary has given its express agreement to the transfer.
- (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 EEA competent authority responsible for the auditor of the subsidiary has given its express agreement to the transfer.

Textual Amendments

- F42** 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)**))
- F43** 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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1253DE Transfer by means of inspection

- (1) This section applies in the case of a transfer of audit working papers if—
 - (a) it is a transfer to an approved third country competent authority listed in section 1253D(2)(a), (f) or (g),
 - (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

- F42** 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\(4\)](#)))
- F43** 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](#)

1253E 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 audit working papers—
 - (a) from the third country competent authority or third country auditors regulated by that authority to the Secretary of State; and
 - (b) from statutory auditors to the third country competent authority.
- (2) The arrangements must provide that—
 - (a) the Secretary of State has the rights and duties referred to in subsections (3) to (5) in relation to papers he requests from the third country competent authority or third country auditors, and
 - (b) the third country competent authority has comparable rights and duties in relation to papers it requests from statutory auditors.
- (3) Any request by the Secretary of State for audit working papers from the third country competent authority or a third country auditor must be accompanied by a statement explaining the reasons for the request.
- (4) The Secretary of State may use the audit working papers he receives in response to a request only in connection with—
 - (a) quality assurance functions which meet requirements equivalent to those of Article 29 of the Audit Directive (quality assurance),
 - (b) investigation or disciplinary functions which meet requirements equivalent to those of Article 30 of the Audit Directive (investigations and penalties), or

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- (c) public oversight functions which meet requirements equivalent to those of Article 32 of the Audit Directive (principles of public oversight).
- (5) The Secretary of State, a person exercising the functions of the Secretary of State and persons employed in discharging those functions must be subject to obligations of professional secrecy in relation to audit papers supplied to the Secretary of State by a third country competent authority or a third country auditor.

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.]

Textual Amendments

F42 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)**))

International obligations

1254 Directions to comply with international obligations

- (1) If it appears to the Secretary of State—
- (a) that any action proposed to be taken by a recognised supervisory body or a recognised qualifying body, [^{F44}the Independent Supervisor] or a body designated by order under section 1252, would be incompatible with Community 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 [^{F45}the Independent Supervisor 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

F44 Words in s. 1254(1)(a) inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), **reg. 16(2)**

F45 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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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)

C13 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\(o\)](#)

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 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—

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- (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)

- C14** 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**)
- C15** 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**

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 (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.

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- (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
 - (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,

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- (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”.

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;
- [^{F46}“the Audit Directive” means Directive [2006/43/EC](#) of the European Parliament and of the Council on statutory audits of annual accounts and consolidated accounts, amending Council Directives [78/660/EEC](#) and [83/349/](#)

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EEC and repealing Council Directive 84/253/EEC, as amended at any time before 1st January 2009;]

[^{F47}“audit working papers” means any documents which—

- (a) are or have been held by a statutory auditor or a third country auditor, and
- (b) are related to the conduct of an audit conducted by that auditor;]

“company” means any company or other body the accounts of which must be audited in accordance with Part 16;

“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;

[^{F48}“EEA auditor” means an individual who is approved in accordance with the Audit Directive by an EEA competent authority to carry out audits of annual accounts or consolidated accounts required by Community law;]

[^{F49}“EEA competent authority” means a competent authority within the meaning of Article 2.10 of the Audit Directive of an EEA State other than the United Kingdom;]

“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.

[^{F50}“third country” means a country or territory that is not an EEA State or part of an EEA State;]

[^{F51}“third country auditor” means a person, other than 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;]

[^{F52}“third country competent authority” means a body established in a third country exercising functions related to the regulation or oversight of auditors;]

(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.

[^{F53}(2A) For the purposes of this Part, Gibraltar shall be treated as if it were an EEA State.]

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- (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

- F46** S. 1261(1): definition inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 2\(2\)](#)
- F47** S. 1261(1): definition inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 2\(2\)](#)
- F48** S. 1261(1): definition inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 2\(2\)](#)
- F49** S. 1261(1): definition inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 2\(2\)](#)
- F50** S. 1261(1): definition inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 2\(2\)](#)
- F51** S. 1261(1): definition inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 2\(2\)](#)
- F52** S. 1261(1): definition inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 2\(2\)](#)
- F53** S. 1261(2A) inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 2\(3\)](#)

Commencement Information

- I13** 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)—

<i>Expression</i>	<i>Provision</i>
address	section 1261(1)
appropriate qualification	section 1219
associate	section 1260
[^{F54} Audit Directive	section 1261(1)]
[^{F55} audit working papers	section 1261(1)]
audited person	section 1210(2)
Auditor General	section 1226(1)
company	section 1261(1)

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delegation order	section 1252(1)
director (of a body corporate)	section 1261(1)
enactment	section 1293
established in the United Kingdom	section 1261(2)
[^{F56} EEA auditor	section 1261(1)]
[^{F57} EEA competent authority	section 1261(1)]
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)
rules of a qualifying body	section 1220(2)
rules of a supervisory body	section 1217(3)
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)
[^{F58} third country	section 1261(1)]
third country auditor, ^{F59}	[^{F60} section 1261(1)]
. . .	
[^{F61} third country competent authority	section 1261(1)]
[^{F62} UK-traded non-EEA company	section 1261(2)]

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Textual Amendments

- F54** S. 1262: entry inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 3\(2\)](#)
- F55** S. 1262: entry inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 3\(2\)](#)
- F56** S. 1262: entry inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 3\(2\)](#)
- F57** S. 1262: entry inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 3\(2\)](#)
- F58** S. 1262: entry inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 3\(2\)](#)
- F59** 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\(3\)\(a\)](#)
- F60** Words in s. 1262 substituted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 3\(3\)\(b\)](#)
- F61** S. 1262: entry inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 3\(2\)](#)
- F62** S. 1262: entry inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 3\(2\)](#)

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

- I14** 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.

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