

Status: Point in time view as at 01/10/2009.

Changes to legislation: There are currently no known outstanding effects for the Companies Act 2006, SCHEDULE 5. (See end of Document for details)

SCHEDULES

SCHEDULE 5

Section 1144(2)

COMMUNICATIONS BY A COMPANY

PART 1

INTRODUCTION

Application of this Schedule

- 1 This Schedule applies to documents or information sent or supplied by a company.

Commencement Information

- I1** Sch. 5 para. 1 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, art. 3(1)(e) (subject to art. 5, Sch. 1) (with arts. 6, 8, Sch. 5)

PART 2

COMMUNICATIONS IN HARD COPY FORM

Introduction

- 2 A document or information is validly sent or supplied by a company if it is sent or supplied in hard copy form in accordance with this Part of this Schedule.

Commencement Information

- I2** Sch. 5 para. 2 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, art. 3(1)(e) (subject to art. 5, Sch. 1) (with arts. 6, 8, Sch. 5)

Method of communication in hard copy form

- 3 (1) A document or information in hard copy form must be—
(a) handed to the intended recipient, or
(b) sent or supplied by hand or by post to an address (in accordance with paragraph 4).
- (2) For the purposes of this Schedule, a person sends a document or information by post if he posts a prepaid envelope containing the document or information.

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Commencement Information

- I3** Sch. 5 para. 3 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, art. 3(1)(e) (subject to art. 5, Sch. 1) (with arts. 6, 8, Sch. 5)

Address for communications in hard copy form

- 4 (1) A document or information in hard copy form may be sent or supplied by the company—
- (a) to an address specified for the purpose by the intended recipient;
 - (b) to a company at its registered office;
 - (c) to a person in his capacity as a member of the company at his address as shown in the company's register of members;
 - (d) to a person in his capacity as a director of the company at his address as shown in the company's register of directors;
 - (e) to an address to which any provision of the Companies Acts authorises the document or information to be sent or supplied.
- (2) Where the company is unable to obtain an address falling within sub-paragraph (1), the document or information may be sent or supplied to the intended recipient's last address known to the company.

Commencement Information

- I4** Sch. 5 para. 4 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, art. 3(1)(e) (subject to art. 5, Sch. 1) (with arts. 6, 8, Sch. 5)

PART 3

COMMUNICATIONS IN ELECTRONIC FORM

Introduction

- 5 A document or information is validly sent or supplied by a company if it is sent in electronic form in accordance with this Part of this Schedule.

Commencement Information

- I5** Sch. 5 para. 5 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, art. 3(1)(e) (subject to art. 5, Sch. 1) (with arts. 6, 8, Sch. 5)

Agreement to communications in electronic form

- 6 A document or information may only be sent or supplied by a company in electronic form—
- (a) to a person who has agreed (generally or specifically) that the document or information may be sent or supplied in that form (and has not revoked that agreement), or

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- (b) to a company that is deemed to have so agreed by a provision in the Companies Acts.

Commencement Information

- I6** Sch. 5 para. 6 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, art. 3(1)(e) (subject to art. 5, Sch. 1) (with arts. 6, 8, Sch. 5)

Address for communications in electronic form

- 7 (1) Where the document or information is sent or supplied by electronic means, it may only be sent or supplied to an address—
- (a) specified for the purpose by the intended recipient (generally or specifically), or
 - (b) where the intended recipient is a company, deemed by a provision of the Companies Acts to have been so specified.
- (2) Where the document or information is sent or supplied in electronic form by hand or by post, it must be—
- (a) handed to the intended recipient, or
 - (b) sent or supplied to an address to which it could be validly sent if it were in hard copy form.

Commencement Information

- I7** Sch. 5 para. 7 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, art. 3(1)(e) (subject to art. 5, Sch. 1) (with arts. 6, 8, Sch. 5)

PART 4

COMMUNICATIONS BY MEANS OF A WEBSITE

Use of website

- 8 A document or information is validly sent or supplied by a company if it is made available on a website in accordance with this Part of this Schedule.

Commencement Information

- I8** Sch. 5 para. 8 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, art. 3(1)(e) (subject to art. 5, Sch. 1) (with arts. 6, 8, Sch. 5)

Agreement to use of website

- 9 A document or information may only be sent or supplied by the company to a person by being made available on a website if the person—
- (a) has agreed (generally or specifically) that the document or information may be sent or supplied to him in that manner, or

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- (b) is taken to have so agreed under—
- (i) paragraph 10 (members of the company etc), or
 - (ii) paragraph 11 (debenture holders),
- and has not revoked that agreement.

Commencement Information

- I9** Sch. 5 para. 9 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, art. 3(1)(e) (subject to art. 5, Sch. 1) (with arts. 6, 8, Sch. 5)

Deemed agreement of members of company etc to use of website

- 10 (1) This paragraph applies to a document or information to be sent or supplied to a person—
- (a) as a member of the company, or
 - (b) as a person nominated by a member in accordance with the company's articles to enjoy or exercise all or any specified rights of the member in relation to the company, or
 - (c) as a person nominated by a member under section 146 to enjoy information rights.
- (2) To the extent that—
- (a) the members of the company have resolved that the company may send or supply documents or information to members by making them available on a website, or
 - (b) the company's articles contain provision to that effect,
- a person in relation to whom the following conditions are met is taken to have agreed that the company may send or supply documents or information to him in that manner.
- (3) The conditions are that—
- (a) the person has been asked individually by the company to agree that the company may send or supply documents or information generally, or the documents or information in question, to him by means of a website, and
 - (b) the company has not received a response within the period of 28 days beginning with the date on which the company's request was sent.
- (4) A person is not taken to have so agreed if the company's request—
- (a) did not state clearly what the effect of a failure to respond would be, or
 - (b) was sent less than twelve months after a previous request made to him for the purposes of this paragraph in respect of the same or a similar class of documents or information.
- (5) Chapter 3 of Part 3 (resolutions affecting a company's constitution) applies to a resolution under this paragraph.

Commencement Information

- I10** Sch. 5 para. 10 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, art. 3(1)(e) (subject to art. 5, Sch. 1) (with arts. 6, 8, Sch. 5)

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Deemed agreement of debenture holders to use of website

- 11 (1) This paragraph applies to a document or information to be sent or supplied to a person as holder of a company's debentures.
- (2) To the extent that—
- (a) the relevant debenture holders have duly resolved that the company may send or supply documents or information to them by making them available on a website, or
 - (b) the instrument creating the debenture in question contains provision to that effect,
- a debenture holder in relation to whom the following conditions are met is taken to have agreed that the company may send or supply documents or information to him in that manner.
- (3) The conditions are that—
- (a) the debenture holder has been asked individually by the company to agree that the company may send or supply documents or information generally, or the documents or information in question, to him by means of a website, and
 - (b) the company has not received a response within the period of 28 days beginning with the date on which the company's request was sent.
- (4) A person is not taken to have so agreed if the company's request—
- (a) did not state clearly what the effect of a failure to respond would be, or
 - (b) was sent less than twelve months after a previous request made to him for the purposes of this paragraph in respect of the same or a similar class of documents or information.
- (5) For the purposes of this paragraph—
- (a) the relevant debenture holders are the holders of debentures of the company ranking *pari passu* for all purposes with the intended recipient, and
 - (b) a resolution of the relevant debenture holders is duly passed if they agree in accordance with the provisions of the instruments creating the debentures.

Commencement Information

III Sch. 5 para. 11 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, art. 3(1)(e) (subject to art. 5, Sch. 1) (with arts. 6, 8, Sch. 5)

Availability of document or information

- 12 (1) A document or information authorised or required to be sent or supplied by means of a website must be made available in a form, and by a means, that the company reasonably considers will enable the recipient—
- (a) to read it, and
 - (b) to retain a copy of it.
- (2) For this purpose a document or information can be read only if—
- (a) it can be read with the naked eye, or
 - (b) to the extent that it consists of images (for example photographs, pictures, maps, plans or drawings), it can be seen with the naked eye.

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Commencement Information

- I12** Sch. 5 para. 12 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, art. 3(1)(e) (subject to art. 5, Sch. 1) (with arts. 6, 8, Sch. 5)

Notification of availability

- 13 (1) The company must notify the intended recipient of—
- (a) the presence of the document or information on the website,
 - (b) the address of the website,
 - (c) the place on the website where it may be accessed, and
 - (d) how to access the document or information.
- (2) The document or information is taken to be sent—
- (a) on the date on which the notification required by this paragraph is sent, or
 - (b) if later, the date on which the document or information first appears on the website after that notification is sent.

Commencement Information

- I13** Sch. 5 para. 13 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, art. 3(1)(e) (subject to art. 5, Sch. 1) (with arts. 6, 8, Sch. 5)

Period of availability on website

- 14 (1) The company must make the document or information available on the website throughout—
- (a) the period specified by any applicable provision of the Companies Acts, or
 - (b) if no such period is specified, the period of 28 days beginning with the date on which the notification required under paragraph 13 is sent to the person in question.
- (2) For the purposes of this paragraph, a failure to make a document or information available on a website throughout the period mentioned in sub-paragraph (1) shall be disregarded if—
- (a) it is made available on the website for part of that period, and
 - (b) the failure to make it available throughout that period is wholly attributable to circumstances that it would not be reasonable to have expected the company to prevent or avoid.

Commencement Information

- I14** Sch. 5 para. 14 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, art. 3(1)(e) (subject to art. 5, Sch. 1) (with arts. 6, 8, Sch. 5)

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PART 5

OTHER AGREED FORMS OF COMMUNICATION

- 15 A document or information that is sent or supplied otherwise than in hard copy or electronic form or by means of a website is validly sent or supplied if it is sent or supplied in a form or manner that has been agreed by the intended recipient.

Commencement Information

- I15** Sch. 5 para. 15 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, art. 3(1)(e) (subject to art. 5, Sch. 1) (with arts. 6, 8, Sch. 5)

PART 6

SUPPLEMENTARY PROVISIONS

Joint holders of shares or debentures

- 16 (1) This paragraph applies in relation to documents or information to be sent or supplied to joint holders of shares or debentures of a company.
- (2) Anything to be agreed or specified by the holder must be agreed or specified by all the joint holders.
- (3) Anything authorised or required to be sent or supplied to the holder may be sent or supplied either—
- (a) to each of the joint holders, or
 - (b) to the holder whose name appears first in the register of members or the relevant register of debenture holders.
- (4) This paragraph has effect subject to anything in the company's articles.

Commencement Information

- I16** Sch. 5 para. 16 wholly in force at 20.1.2007, see s. 1300 and S.I. 2006/3428, art. 3(1)(e) (subject to art. 5, Sch. 1) (with arts. 6, 8, Sch. 5)

Death or bankruptcy of holder of shares

- 17 (1) This paragraph has effect in the case of the death or bankruptcy of a holder of a company's shares.
- (2) Documents or information required or authorised to be sent or supplied to the member may be sent or supplied to the persons claiming to be entitled to the shares in consequence of the death or bankruptcy—
- (a) by name, or
 - (b) by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description,
- at the address in the United Kingdom supplied for the purpose by those so claiming.

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- (3) Until such an address has been so supplied, a document or information may be sent or supplied in any manner in which it might have been sent or supplied if the death or bankruptcy had not occurred.
- (4) This paragraph has effect subject to anything in the company's articles.
- (5) References in this paragraph to the bankruptcy of a person include—
 - (a) the sequestration of the estate of a person;
 - (b) a person's estate being the subject of a protected trust deed (within the meaning of the Bankruptcy (Scotland) Act 1985 (c. 66)).

In such a case the reference in sub-paragraph (2)(b) to the trustee of the bankrupt is to be read as the permanent or interim trustee (within the meaning of that Act) on the sequestrated estate or, as the case may be, the trustee under the protected deed.

Commencement Information

I17 Sch. 5 para. 17 wholly in force at 20.1.2007, see s. 1300 and [S.I. 2006/3428](#), [art. 3\(1\)\(e\)](#) (subject to [art. 5, Sch. 1](#)) (with arts. 6, 8, Sch. 5)

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