

COMPANIES ACT 2006

EXPLANATORY NOTES

COMMENTARY

Part 16: Audit

Chapter 5: Quoted Companies: Right of Members to Raise Audit Concerns at Accounts Meeting

808. This Chapter introduces a new right for members of a quoted company to raise questions about the work of the auditors (all shareholders in a company limited by shares are members).

Section 527: Members' power to require website publication of audit concerns

809. This section creates a new right for members of a quoted company – if they have a large enough holding in the company, or there are enough of them – to ask the company to publish on a website a statement raising questions about the accounts, or about the departure of an auditor, that they propose to bring up at the next meeting where the accounts are to be discussed.

810. *Subsection (2)* specifies the thresholds the members have to meet, which are the same as for shareholders who want to ask a company to circulate a statement under section 314: they must either have 5% of the total voting rights, or there must be at least 100 of them, holding shares on which there has been paid up an average sum per member of at least £100. *Subsection (4)* sets out the mechanics of transmitting the request to the company: it may be in hard copy or electronic.

811. *Subsection (5)* protects the company if members abuse the new right, e.g. by requesting a defamatory statement to be published. It enables the company, or someone else such as the auditor or a director, to apply to the court, and the court can then determine whether the right is being abused, in which case the company is not obliged to publish the statement. *Subsection (6)* provides that the court can order the shareholders who requested publication to pay some or all of the costs of the proceedings.

Section 528: Requirements as to website availability

812. This section sets out the requirements which the company must meet in making the shareholders' statements available on a website, in the same way as section 353. *Subsection (4)* requires the company to get the statement onto a website within three days of receiving it, and to keep it available at least until after the meeting to which it relates.

Section 529: Website publication: company's supplementary duties

813. This section requires quoted companies to draw attention to the possibility of a website statement in the notice of the accounts meeting. It also specifies the costs of publication are to be borne by the company. *Subsection (3)* requires the company to forward the

*These notes refer to the Companies Act 2006 (c.46)
which received Royal Assent on 8 November 2006*

statement to the auditor at the same time as it puts it on a website. *Subsection (4)* provides that a statement under this chapter can be dealt with at the accounts meeting.

Section 530: Website publication: offences

814. This section provides for offences when a company fails to comply with either of the preceding two sections, with maximum penalties of an unlimited fine.

Section 531: Meaning of “quoted company”

815. This section defines the phrase “quoted company” for the purposes of Chapter 5 of Part 16 as being the same as the definition in section 385 in Part 15, and that the power in Part 15 to amend the definition also applies in this Chapter.