



# Companies Act 2006

## 2006 CHAPTER 46

### PART 36

#### OFFENCES UNDER THE COMPANIES ACTS

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

- C1** Pts. 1-39 (except for Pt. 7 and ss. 662-669), 45-47 extended (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), art. 5(1), [Sch. 1 para. 2](#)

#### *Liability of officer in default*

##### **1121 Liability of officer in default**

- (1) This section has effect for the purposes of any provision of the Companies Acts to the effect that, in the event of contravention of an enactment in relation to a company, an offence is committed by every officer of the company who is in default.
- (2) For this purpose “officer” includes—
  - (a) any director, manager or secretary, and
  - (b) any person who is to be treated as an officer of the company for the purposes of the provision in question.
- (3) An officer is “in default” for the purposes of the provision if he authorises or permits, participates in, or fails to take all reasonable steps to prevent, the contravention.

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

- C2** S. 1121 applied (15.12.2007) by [The Companies \(Cross-Border Mergers\) Regulations \(S.I. 2007/2974\)](#), {reg. 4(1)(e)} (with transitional provisions in [Sch. 1 para. 2](#))
- C3** S. 1121 applied (6.4.2008) by [The Bank Accounts Directive \(Miscellaneous Banks\) Regulations 2008 \(S.I. 2008/567\)](#), regs. 4, [7\(2\)](#), [Sch. para. 1](#) (with [Sch. para. 11](#))

*Status: Point in time view as at 30/06/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Companies Act 2006, Part 36. (See end of Document for details)*

- C4 S. 1121 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 12(6)**
- C5 S. 1121 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 6(3)(4)**
- C6 Ss. 1121-1123 applied (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 16(4)(a)**
- C7 Ss. 1121, 1122 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 49** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)
- C8 S. 1121 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **70**
- C9 S. 1121 applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (General) Regulations 2012 (S.I. 2012/3012), regs. 1, **23(5)-(7)**
- C10 Ss. 1121, 1122 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 19(a)**

#### Commencement Information

- II S. 1121 wholly in force at 1.10.2009; s. 1121 not in force at Royal Assent, see s. 1300; s. 1121 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(2)(b)** (subject to **art. 5, Sch. 1** and with **arts. 6, 8, Sch. 5**); s. 1121 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(c)** (with **art. 11(1)**); s. 1121 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(l)(3)(h)** (with saving in **art. 12**); s. 1121 in force for further specified purposes at 6.4.2008 and 1.10. 2008 by S.I. 2007/3495, **arts. 3(3)(g){5(3)(a)}** (with savings in arts. 7, 12); s. 1121 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(s)** (with arts. 5, 7, 8, **Sch. 2**) (as amended by S.I. 2009/1802, **art. 18**)

## 1122 Liability of company as officer in default

- (1) Where a company is an officer of another company, it does not commit an offence as an officer in default unless one of its officers is in default.
- (2) Where any such offence is committed by a company the officer in question also commits the offence and is liable to be proceeded against and punished accordingly.
- (3) In this section “officer” and “in default” have the meanings given by section 1121.

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

- C10 Ss. 1121, 1122 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 19(a)**
- C11 S. 1122 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {**reg. 4(1)(e)**} (with transitional provisions in **Sch. 1 para. 2**)
- C12 Ss. 1121-1123 applied (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 16(4)(a)**
- C13 S. 1122 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 12(6)**
- C14 S. 1122 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 6(3)(4)**
- C15 S. 1122 applied (6.4.2007) by The Companies Acts (Unregistered Companies) Regulations 2007 (S.I. 2007/318), **reg. 3, Sch.** (with **reg. 6**)

*Status: Point in time view as at 30/06/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Companies Act 2006, Part 36. (See end of Document for details)*

- C16** Ss. 1121, 1122 applied (with modifications) (1.10.2008) by [The Limited Liability Partnerships \(Accounts and Audit\) \(Application of Companies Act 2006\) Regulations 2008 \(S.I. 2008/1911\)](#), [reg. 49](#) (as amended (1.10.2009) by [The Limited Liability Partnerships \(Application of Companies Act 2006\) Regulations 2009 \(S.I. 2009/1804\)](#)), [regs. 2, 85](#), [Sch. 3 para. 15\(4\)](#))
- C17** S. 1122 applied (with modifications) (1.10.2009) by [The Limited Liability Partnerships \(Application of Companies Act 2006\) Regulations 2009 \(S.I. 2009/1804\)](#), [regs. 2, 70](#)
- C18** S. 1122 applied (with modifications) (E.W.) (2.1.2013) by [The Charitable Incorporated Organisations \(General\) Regulations 2012 \(S.I. 2012/3012\)](#), [regs. 1, 23\(5\)\(6\)\(8\)](#)

#### Commencement Information

- I2** S. 1122 wholly in force at 1.10.2009; s. 1122 not in force at Royal Assent, see s. 1300; s. 1122 in force for specified purposes at 20.1.2007 by [S.I. 2006/3428](#), [art. 3\(2\)\(b\)](#) (subject to [art. 5](#), [Sch. 1](#) and with [arts. 6, 8](#), [Sch. 5](#)); s. 1122 in force for further specified purposes at 6.4.2007 by [S.I. 2007/1093](#), [art. 2\(2\)\(c\)](#) (with [art. 11\(1\)](#)); s. 1122 in force for further specified purposes at 1.10.2007 by [S.I. 2007/2194](#), [art. 2\(1\)\(l\)\(3\)\(h\)](#) (with saving in [art. 12](#)); s. 1122 in force for further specified purposes at 6.4.2008 and 1.10.2008 by [S.I. 2007/3495](#), [arts. 3\(3\)\(g\)](#){5(3)(a)} (with savings in [arts. 7, 12](#)); s. 1122 otherwise in force at 1.10.2009 by [S.I. 2008/2860](#), [art. 3\(s\)](#) (with [arts. 5, 7, 8](#), [Sch. 2](#)) (as amended by [S.I. 2009/1802](#), [art. 18](#))

## 1123 Application to bodies other than companies

- (1) Section 1121 (liability of officers in default) applies to a body other than a company as it applies to a company.
- (2) As it applies in relation to a body corporate other than a company—
- (a) the reference to a director of the company shall be read as referring—
    - (i) where the body's affairs are managed by its members, to a member of the body,
    - (ii) in any other case, to any corresponding officer of the body, and
  - (b) the reference to a manager or secretary of the company shall be read as referring to any manager, secretary or similar officer of the body.
- (3) As it applies in relation to a partnership—
- (a) the reference to a director of the company shall be read as referring to a member of the partnership, and
  - (b) the reference to a manager or secretary of the company shall be read as referring to any manager, secretary or similar officer of the partnership.
- (4) As it applies in relation to an unincorporated body other than a partnership—
- (a) the reference to a director of the company shall be read as referring—
    - (i) where the body's affairs are managed by its members, to a member of the body,
    - (ii) in any other case, to a member of the governing body, and
  - (b) the reference to a manager or secretary of the company shall be read as referring to any manager, secretary or similar officer of the body.

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

- C19** Ss. 1121-1123 applied (6.4.2008) by [The Partnerships \(Accounts\) Regulations 2008 \(S.I. 2008/569\)](#), [reg. 16\(4\)\(a\)](#)

*Status: Point in time view as at 30/06/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Companies Act 2006, Part 36. (See end of Document for details)*

- C20** S. 1123 applied (6.4.2008) by [The Bank Accounts Directive \(Miscellaneous Banks\) Regulations 2008 \(S.I. 2008/567\)](#), regs. 4, **7(2)**, Sch. para. 1 (with Sch. para. 11)
- C21** S. 1123 applied (6.4.2008) by [The Insurance Accounts Directive \(Miscellaneous Insurance Undertakings\) Regulations 2008 \(S.I. 2008/565\)](#), **reg. 12(6)**
- C22** S. 1123 applied (6.4.2008) by [The Insurance Accounts Directive \(Miscellaneous Insurance Undertakings\) Regulations 2008 \(S.I. 2008/565\)](#), **reg. 6(3)(4)**
- C23** S. 1123 applied (15.12.2007) by [The Companies \(Cross-Border Mergers\) Regulations \(S.I. 2007/2974\)](#), {reg. 4(1)(e)} (with transitional provisions in Sch. 1 para. 2)

#### Commencement Information

- I3** S. 1123 wholly in force; s. 1123 not in force at Royal Assent see s. 1300; s. 1123 in force for specified purposes at 6.4.2007 by [S.I. 2007/1093](#), **art. 2(2)(c)** (with [art. 11\(1\)](#)); s. 1123 in force for further specified purposes at 1.10.2007 by [S.I. 2007/2194](#), **art. 2(1)(l)** (with saving in [art. 12](#)); s. 1123 in force for further specified purposes at 6.4.2008 and 1.10.2008 by [S.I. 2007/3495](#), **arts. 3(3)(g), 5(3)(a)** (with savings in [arts. 7, 12](#)); s. 1123 otherwise in force at 1.10.2009 by [S.I. 2008/2860](#), **art. 3(s)** (with [arts. 5, 7, 8, Sch. 2](#)) (as amended by [S.I. 2009/1802](#), [art. 18](#))

### *Offences under the Companies Act 1985*

#### 1124 Amendments of the Companies Act 1985

Schedule 3 contains amendments of the Companies Act 1985 (c. 6) relating to offences.

#### Commencement Information

- I4** S. 1124 wholly in force at 1.10.2007; s. 1124 not in force at Royal Assent see s. 1300, s. 1124 in force at 1.10.2007 by [S.I. 2007/2194](#), **art. 2(1)(k)** (with saving in [art. 12](#) and subject to transitional adaptations specified in [Sch. 1](#))

### *General provisions*

#### 1125 Meaning of “daily default fine”

- (1) This section defines what is meant in the Companies Acts where it is provided that a person guilty of an offence is liable on summary conviction to a fine not exceeding a specified amount “and, for continued contravention, a daily default fine” not exceeding a specified amount.
- (2) This means that the person is liable on a second or subsequent summary conviction of the offence to a fine not exceeding the latter amount for each day on which the contravention is continued (instead of being liable to a fine not exceeding the former amount).

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

- C24** Ss. 1125-1132 applied (with modifications) (1.10.2008) by [The Limited Liability Partnerships \(Accounts and Audit\) \(Application of Companies Act 2006\) Regulations 2008 \(S.I. 2008/1911\)](#), **reg. 50** (as amended (1.10.2009) by [The Limited Liability Partnerships \(Application of Companies Act 2006\) Regulations 2009 \(S.I. 2009/1804\)](#), regs. 2, 85, **Sch. 3 para. 15(4)**)

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*Changes to legislation: There are currently no known outstanding effects for the Companies Act 2006, Part 36. (See end of Document for details)*

- C25** S. 1125 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(1)(f)} (with transitional provisions in Sch. 1 para. 2)
- C26** S. 1125 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **71**
- C27** S. 1125 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 19(b)**

#### Commencement Information

- I5** S. 1125 wholly in force at 1.10.2009 ; s. 1125 not in force at Royal Assent, see s. 1300; s. 1125 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(2)(b)** (subject to **art. 5, Sch. 1** and with **arts. 6, 8, Sch. 5**); s. 1125 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(c)** (with **art. 11(1)**); s. 1125 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(l)(3)(h)** (with saving in **art. 12** and subject to transitional provisions and savings in **Sch. 1**); s. 1125 in force for further specified purposes at 6.4.2008 and 1.10.2008 by S.I. 2007/3495, **arts. 3(3)(g), 5(3)(a)** (with savings in **arts. 7, 12**); s. 1125 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(s)** (with **arts. 5, 7, 8, Sch. 2**) (as amended by S.I. 2009/1802, **art. 18**)

## 1126 Consents required for certain prosecutions

- (1) This section applies to proceedings for an offence under any of the following provisions—
- section 458, 460 or 949 of this Act (offences of unauthorised disclosure of information);
  - section 953 of this Act (failure to comply with rules about takeover bid documents);
  - section 448, 449, 450, 451 or 453A of the Companies Act 1985 (c. 6) (offences in connection with company investigations);
  - section 798 of this Act or section 455 of the Companies Act 1985 (offence of attempting to evade restrictions on shares).
- [<sup>F1</sup>section 1112 of this Act (general false statement offence);  
paragraph 5 or 6 of Schedule 1B to this Act (breach of certain restrictions imposed under that Schedule)]
- (2) No such proceedings are to be brought in England and Wales except by or with the consent of—
- (a) in the case of an offence under—
    - (i) section 458, 460 or 949 of this Act,
    - (ii) section 953 of this Act, <sup>F2</sup>...
    - (iii) section 448, 449, 450, 451 or 453A of the Companies Act 1985, [<sup>F3</sup>or
    - (iv) section 1112 of this Act,]the Secretary of State or the Director of Public Prosecutions;
  - (b) in the case of an offence under section 798 of [<sup>F4</sup>, or paragraph 5 or 6 of Schedule 1B to,] this Act or section 455 of the Companies Act 1985, the Secretary of State.
- (3) No such proceedings are to be brought in Northern Ireland except by or with the consent of—
- (a) in the case of an offence under—
    - (i) section 458, 460 or 949 of this Act,
    - (ii) section 953 of this Act, <sup>F5</sup>...

*Status: Point in time view as at 30/06/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Companies Act 2006, Part 36. (See end of Document for details)*

- (iii) section 448, 449, 450, 451 or 453A of the Companies Act 1985, [<sup>F6</sup>or  
(iv) section 1112 of this Act,]  
the Secretary of State or the Director of Public Prosecutions for Northern  
Ireland;
- (b) in the case of an offence under section 798 of [<sup>F7</sup>, or paragraph 5 or 6 of  
Schedule 1B to,] this Act or section 455 of the Companies Act 1985, the  
Secretary of State.

#### Textual Amendments

- F1** Words in s. 1126(1) inserted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), s. 164\(1\), Sch. 3 para. 9\(2\); S.I. 2015/1329, reg. 3\(a\); S.I. 2015/2029, reg. 4\(a\)](#)
- F2** Word in s. 1126(2)(a)(ii) omitted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\), s. 164\(1\), Sch. 3 para. 9\(3\)\(a\); S.I. 2015/1329, reg. 3\(a\); S.I. 2015/2029, reg. 4\(a\)](#)
- F3** S. 1126(2)(a)(iv) and word inserted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), s. 164\(1\), Sch. 3 para. 9\(3\)\(b\); S.I. 2015/1329, reg. 3\(a\); S.I. 2015/2029, reg. 4\(a\)](#)
- F4** Words in s. 1126(2)(b) inserted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), s. 164\(1\), Sch. 3 para. 9\(4\); S.I. 2015/1329, reg. 3\(a\); S.I. 2015/2029, reg. 4\(a\)](#)
- F5** Word in s. 1126(3)(a)(ii) omitted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\), s. 164\(1\), Sch. 3 para. 9\(5\)\(a\); S.I. 2015/1329, reg. 3\(a\); S.I. 2015/2029, reg. 4\(a\)](#)
- F6** S. 1126(3)(a)(iv) and word inserted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), s. 164\(1\), Sch. 3 para. 9\(5\)\(b\); S.I. 2015/1329, reg. 3\(a\); S.I. 2015/2029, reg. 4\(a\)](#)
- F7** Words in s. 1126(3)(b) inserted (26.5.2015 for specified purposes, 6.4.2016 in so far as not already in force) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\), s. 164\(1\), Sch. 3 para. 9\(6\); S.I. 2015/1329, reg. 3\(a\); S.I. 2015/2029, reg. 4\(a\)](#)

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

- C28** Ss. 1125-1132 applied (with modifications) (1.10.2008) by [The Limited Liability Partnerships \(Accounts and Audit\) \(Application of Companies Act 2006\) Regulations 2008 \(S.I. 2008/1911\), reg. 50 \(as amended \(1.10.2009\) by The Limited Liability Partnerships \(Application of Companies Act 2006\) Regulations 2009 \(S.I. 2009/1804\), regs. 2, 85, Sch. 3 para. 15\(4\)\)](#)
- C29** S. 1126 applied (with modifications) (1.10.2009) by [The Limited Liability Partnerships \(Application of Companies Act 2006\) Regulations 2009 \(S.I. 2009/1804\), regs. 2, 72 \(as amended \(6.4.2016\) by The Limited Liability Partnerships \(Register of People with Significant Control\) Regulations 2016 \(S.I. 2016/340\), reg. 1\(3\), Sch. 3 para. 6\)](#)

#### Commencement Information

- I6** S. 1126 wholly in force at 6.4.2008; s. 1126 not in force at Royal Assent, see s. 1300; s. 1126 in force for specified purposes at 20.1.2007 by [S.I. 2006/3428, art. 3\(2\)\(b\)](#) (subject to [art. 5, Sch. 1](#) and with [arts. 6, 8, Sch. 5](#)); s. 1126 in force for further specified purposes at 6.4.2007 by [S.I. 2007/1093, art. 2\(2\)\(c\)](#) (with [art. 11\(1\)](#)); s. 1126 in force for further specified purposes at 1.10.2007 by [S.I. 2007/2194, art. 2\(1\)\(l\)](#) (with saving in [art. 12](#)); s. 1126 fully in force at 6.4.2008 by [S.I. 2007/3495, art. 3\(1\)\(n\)](#) (with savings in [arts. 7, 12](#))

*Status: Point in time view as at 30/06/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Companies Act 2006, Part 36. (See end of Document for details)*

## 1127 Summary proceedings: venue

- (1) Summary proceedings for any offence under the Companies Acts may be taken—
  - (a) against a body corporate, at any place at which the body has a place of business, and
  - (b) against any other person, at any place at which he is for the time being.
- (2) This is without prejudice to any jurisdiction exercisable apart from this section.

### Modifications etc. (not altering text)

- C30** S. 1127 applied (15.12.2007) by The Companies (Cross-Border Mergers) Regulations (S.I. 2007/2974), {reg. 4(1)(g)} (with transitional provisions in Sch. 1 para. 2)
- C31** Ss. 1127, 1128 applied (15.8.2008) by The Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2008 (S.I. 2008/1950), **reg. 4**
- C32** Ss. 1127, 1128 applied (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 16(4)(b)**
- C33** Ss. 1127, 1128 applied (6.4.2008) by The Partnerships (Accounts) Regulations 2008 (S.I. 2008/569), **reg. 15(5)(a)**
- C34** S. 1127 applied (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), **reg. 13(6)** (with Sch. para. 11)
- C35** Ss. 1125-1132 applied (with modifications) (1.10.2008) by The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 (S.I. 2008/1911), **reg. 50** (as amended (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, 85, **Sch. 3 para. 15(4)**)
- C36** S. 1127 applied (6.4.2008) by The Bank Accounts Directive (Miscellaneous Banks) Regulations 2008 (S.I. 2008/567), **reg. 6(7)** (with Sch. para. 11)
- C37** Ss. 1127, 1128 applied (6.4.2008) by The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 (S.I. 2008/565), **reg. 13**
- C38** Ss. 1127-1133 applied (with modifications) (1.10.2009) by The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 (S.I. 2009/1804), regs. 2, **73**
- C39** S. 1127 applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (General) Regulations 2012 (S.I. 2012/3012), regs. 1, **23(5)(6), 60(2)(3)**
- C40** S. 1127 applied (with modifications) (E.W.) (2.1.2013) by The Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012 (S.I. 2012/3013), regs. 1, **15(1)(2)**
- C41** Ss. 1127 1128 applied (26.5.2015) by Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(3)(g)(ii), **Sch. 4 para. 19(c)**

### Commencement Information

- I7** S. 1127 wholly in force at 1.10.2009; s. 1127 not in force at Royal Assent, see s. 1300; s. 1127 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(2)(b)** (subject to **art. 5, Sch. 1** and with **arts. 6, 8, Sch. 5**); s. 1127 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(c)** (with **art. 11(1)**); s. 1127 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(1)(3)(h)** (with saving in **art. 12** and subject to transitional provisions and savings in **Sch. 1**); s. 1127 in force for further specified purposes at 6.4.2008 and 1.10.2008 by S.I. 2007/3495, **arts. 3(3)(g), 5(3)(a)** (with savings in **arts. 7, 12**); s. 1127 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(3)** (with **arts. 5, 7, 8, Sch. 2**) (as amended by S.I. 2009/1802, **art. 18**)

## 1128 Summary proceedings: time limit for proceedings

- (1) An information relating to an offence under the Companies Acts that is triable by a magistrates' court in England and Wales may be so tried if it is laid—

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- (a) at any time within three years after the commission of the offence, and
  - (b) within twelve months after the date on which evidence sufficient in the opinion of the Director of Public Prosecutions or the Secretary of State (as the case may be) to justify the proceedings comes to his knowledge.
- (2) Summary proceedings in Scotland for an offence under the Companies Acts—
- (a) must not be commenced after the expiration of three years from the commission of the offence;
  - (b) subject to that, may be commenced at any time—
    - (i) within twelve months after the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to his knowledge, or
    - (ii) where such evidence was reported to him by the Secretary of State, within twelve months after the date on which it came to the knowledge of the latter.
- Section 136(3) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (date when proceedings deemed to be commenced) applies for the purposes of this subsection as for the purposes of that section.
- (3) A magistrates' court in Northern Ireland has jurisdiction to hear and determine a complaint charging the commission of a summary offence under the Companies Acts provided that the complaint is made—
- (a) within three years from the time when the offence was committed, and
  - (b) within twelve months from the date on which evidence sufficient in the opinion of the Director of Public Prosecutions for Northern Ireland or the Secretary of State (as the case may be) to justify the proceedings comes to his knowledge.
- (4) 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 the case may be) as to the date on which such evidence as is referred to above came to his notice is conclusive evidence.

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

- C41** Ss. 1127 1128 applied (26.5.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), s. 164(3)(g)(ii), **Sch. 4 para. 19(c)**
- C42** S. 1128 applied (15.12.2007) by [The Companies \(Cross-Border Mergers\) Regulations \(S.I. 2007/2974\)](#), {reg. 4(1)(g)} (with transitional provisions in Sch. 1 para. 2)
- C43** Ss. 1127, 1128 applied (6.4.2008) by [The Partnerships \(Accounts\) Regulations 2008 \(S.I. 2008/569\)](#), **reg. 16(4)(b)**
- C44** Ss. 1127, 1128 applied (6.4.2008) by [The Partnerships \(Accounts\) Regulations 2008 \(S.I. 2008/569\)](#), **reg. 15(5)(a)**
- C45** S. 1128 applied (6.4.2008) by [The Bank Accounts Directive \(Miscellaneous Banks\) Regulations 2008 \(S.I. 2008/567\)](#), **reg. 13(6)** (with Sch. para. 11)
- C46** Ss. 1125-1132 applied (with modifications) (1.10.2008) by [The Limited Liability Partnerships \(Accounts and Audit\) \(Application of Companies Act 2006\) Regulations 2008 \(S.I. 2008/1911\)](#), **reg. 50** (as amended (1.10.2009) by [The Limited Liability Partnerships \(Application of Companies Act 2006\) Regulations 2009 \(S.I. 2009/1804\)](#), regs. 2, 85, **Sch. 3 para. 15(4)**)
- C47** S. 1128 applied (6.4.2008) by [The Bank Accounts Directive \(Miscellaneous Banks\) Regulations 2008 \(S.I. 2008/567\)](#), **reg. 6(7)** (with Sch. para. 11)



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*Changes to legislation: There are currently no known outstanding effects for the Companies Act 2006, Part 36. (See end of Document for details)*

- C48** S. 1128 applied (6.4.2008) by [The Insurance Accounts Directive \(Miscellaneous Insurance Undertakings\) Regulations 2008 \(S.I. 2008/565\)](#), [reg. 13](#)
- C49** S.s. 1127, 1128 applied (15.8.2008) by [The Insurance Accounts Directive \(Lloyd's Syndicate and Aggregate Accounts\) Regulations 2008 \(S.I. 2008/1950\)](#), [reg. 4](#)
- C50** Ss. 1127-1133 applied (with modifications) (1.10.2009) by [The Limited Liability Partnerships \(Application of Companies Act 2006\) Regulations 2009 \(S.I. 2009/1804\)](#), [regs. 2, 73](#)
- C51** S. 1128 applied (with modifications) (E.W.) (2.1.2013) by [The Charitable Incorporated Organisations \(General\) Regulations 2012 \(S.I. 2012/3012\)](#), [regs. 1, 23\(5\)\(6\), 60\(2\)\(3\)](#)
- C52** S. 1128 applied (with modifications) (E.W.) (2.1.2013) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) Regulations 2012 \(S.I. 2012/3013\)](#), [regs. 1, 15\(1\)\(2\)](#)

#### Commencement Information

- I8** S. 1128 wholly in force at 1.10.2009; s. 1128 not in force at Royal Assent, see s. 1300; s. 1128 in force for specified purposes at 20.1.2007 by [S.I. 2006/3428](#), [art. 3\(2\)\(b\)](#) (subject to [art. 5, Sch. 1](#) and with [arts. 6, 8, Sch. 5](#)); s. 1128 in force for further specified purposes at 6.4.2007 by [S.I. 2007/1093](#), [art. 2\(2\)\(c\)](#) (with [art. 11\(1\)](#)); s. 1128 in force for further specified purposes at 1.10.2007 by [S.I. 2007/2194](#), [art. 2\(1\)\(l\)\(3\)\(h\)](#) (with saving in [art. 12](#) and subject to transitional provisions and savings in [Sch. 1](#)); s. 1128 in force for further specified purposes at 6.4.2008 and 1.10.2008 by [S.I. 2007/3495](#), [arts. 3\(3\)\(g\), 5\(3\)\(a\)](#) (with savings in [arts. 7, 12](#)); s. 1128 otherwise in force at 1.10.2009 by [S.I. 2008/2860](#), [art. 3\(s\)](#) (with [arts. 5, 7, 8, Sch. 2](#)) (as amended by [S.I. 2009/1802](#), [art. 18](#))

## 1129 Legal professional privilege

In proceedings against a person for an offence under the Companies Acts, nothing in those Acts is to be taken to require any person to disclose any information that he is entitled to refuse to disclose on grounds of legal professional privilege (in Scotland, confidentiality of communications).

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

- C53** S. 1129 applied (15.12.2007) by [The Companies \(Cross-Border Mergers\) Regulations \(S.I. 2007/2974\)](#), {[reg. 4\(1\)\(h\)](#)} (with transitional provisions in [Sch. 1 para. 2](#))
- C54** Ss. 1125-1132 applied (with modifications) (1.10.2008) by [The Limited Liability Partnerships \(Accounts and Audit\) \(Application of Companies Act 2006\) Regulations 2008 \(S.I. 2008/1911\)](#), [reg. 50](#) (as amended (1.10.2009) by [The Limited Liability Partnerships \(Application of Companies Act 2006\) Regulations 2009 \(S.I. 2009/1804\)](#), [regs. 2, 85, Sch. 3 para. 15\(4\)](#))
- C55** Ss. 1127-1133 applied (with modifications) (1.10.2009) by [The Limited Liability Partnerships \(Application of Companies Act 2006\) Regulations 2009 \(S.I. 2009/1804\)](#), [regs. 2, 73](#)
- C56** S. 1129 applied (with modifications) (E.W.) (2.1.2013) by [The Charitable Incorporated Organisations \(General\) Regulations 2012 \(S.I. 2012/3012\)](#), [regs. 1, 23\(5\)\(6\), 60\(2\)\(3\)](#)
- C57** S. 1129 applied (with modifications) (E.W.) (2.1.2013) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) Regulations 2012 \(S.I. 2012/3013\)](#), [regs. 1, 15\(1\)\(2\)](#)
- C58** S. 1129 applied (26.5.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), [s. 164\(3\)\(g\)\(ii\)](#), [Sch. 4 para. 19\(d\)](#)

#### Commencement Information

- I9** S. 1129 wholly in force at 1.10.2009; s. 1129 not in force at Royal Assent, see s. 1300; s. 1129 in force for specified purposes at 20.1.2007 by [S.I. 2006/3428](#), [art. 3\(2\)\(b\)](#) (subject to [art. 5, Sch. 1](#) and with [arts. 6, 8, Sch. 5](#)); s. 1129 in force for further specified purposes at 6.4.2007 by [S.I. 2007/1093](#), [art. 2\(2\)\(c\)](#) (with [art. 11\(1\)](#)); s. 1129 in force for further specified purposes at 1.10.2007 by [S.I. 2007/2194](#), [art. 2\(1\)\(l\)\(3\)\(h\)](#) (with saving in [art. 12](#) and subject to transitional provisions and savings in [Sch. 1](#)); s. 1129 in force for further specified purposes at 6.4.2008 and 1.10.2008 by [S.I. 2007/3495](#), [arts. 3\(3\)\(g\)](#),

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**5(3)(a)** (with savings in arts. 7, 12); s. 1129 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(s)** (with arts. 5, 7, 8, Sch. 2) (as amended by S.I. 2009/1802, art. 18)

### 1130 Proceedings against unincorporated bodies

- (1) Proceedings for an offence under the Companies Acts alleged to have been committed by an unincorporated body must be brought in the name of the body (and not in that of any of its members).
- (2) For the purposes of such proceedings—
  - (a) any rules of court relating to the service of documents have effect as if the body were a body corporate, and
  - (b) the following provisions apply as they apply in relation to a body corporate—
    - (i) in England and Wales, section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43),
    - (ii) in Scotland, sections 70 and 143 of the Criminal Procedure (Scotland) Act 1995 (c. 46),
    - (iii) in Northern Ireland, section 18 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.)) and Article 166 of and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).
- (3) A fine imposed on an unincorporated body on its conviction of an offence under the Companies Acts must be paid out of the funds of the body.

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

- C59** Ss. 1125-1132 applied (with modifications) (1.10.2008) by [The Limited Liability Partnerships \(Accounts and Audit\) \(Application of Companies Act 2006\) Regulations 2008 \(S.I. 2008/1911\)](#), **reg. 50** (as amended (1.10.2009) by [The Limited Liability Partnerships \(Application of Companies Act 2006\) Regulations 2009 \(S.I. 2009/1804\)](#), regs. 2, 85, **Sch. 3 para. 15(4)**)
- C60** S. 1130 applied (6.4.2008) by [The Bank Accounts Directive \(Miscellaneous Banks\) Regulations 2008 \(S.I. 2008/567\)](#), **reg. 13(6)** (with Sch. para. 11)
- C61** S. 1130 applied (6.4.2008) by [The Bank Accounts Directive \(Miscellaneous Banks\) Regulations 2008 \(S.I. 2008/567\)](#), **reg. 6(7)** (with Sch. para. 11)
- C62** S. 1130 applied (6.4.2008) by [The Bank Accounts Directive \(Miscellaneous Banks\) Regulations 2008 \(S.I. 2008/567\)](#), regs. 4, **7(2)**, Sch. para. 1 (with Sch. para. 11)
- C63** S. 1130 applied (6.4.2008) by [The Insurance Accounts Directive \(Miscellaneous Insurance Undertakings\) Regulations 2008 \(S.I. 2008/565\)](#), **reg. 12(6)**
- C64** S. 1130 applied (6.4.2008) by [The Insurance Accounts Directive \(Miscellaneous Insurance Undertakings\) Regulations 2008 \(S.I. 2008/565\)](#), **reg. 6(3)(4)**
- C65** S. 1130 applied (15.12.2007) by [The Companies \(Cross-Border Mergers\) Regulations \(S.I. 2007/2974\)](#), {reg. 4(1)(i)} (with transitional provisions in Sch. 1 para. 2)
- C66** S. 1130 applied (6.4.2008) by [The Insurance Accounts Directive \(Miscellaneous Insurance Undertakings\) Regulations 2008 \(S.I. 2008/565\)](#), **reg. 5(7)**
- C67** S. 1130 applied (6.4.2008) by [The Partnerships \(Accounts\) Regulations 2008 \(S.I. 2008/569\)](#), **reg. 15(5)(b)**
- C68** S. 1130 applied (6.4.2008) by [The Partnerships \(Accounts\) Regulations 2008 \(S.I. 2008/569\)](#), **reg. 16(4)(c)**
- C69** Ss. 1127-1133 applied (with modifications) (1.10.2009) by [The Limited Liability Partnerships \(Application of Companies Act 2006\) Regulations 2009 \(S.I. 2009/1804\)](#), regs. 2, **73**

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*Changes to legislation: There are currently no known outstanding effects for the Companies Act 2006, Part 36. (See end of Document for details)*

#### Commencement Information

**I10** S. 1130 wholly in force at 1.10.2009; s. 1130 not in force at Royal Assent, see s. 1300; s. 1130 in force for specified purposes at 20.1.2007 by [S.I. 2006/3428](#), [art. 3\(2\)\(b\)](#) (subject to [art. 5](#), [Sch. 1](#) and with [arts. 6, 8](#), [Sch. 5](#)); s. 1130 in force for further specified purposes at 6.4.2007 by [S.I. 2007/1093](#), [art. 2\(2\)\(c\)](#) (with [art. 11\(1\)](#)); s. 1130 in force for further specified purposes at 1.10.2007 by [S.I. 2007/2194](#), [art. 2\(1\)\(l\)\(3\)\(h\)](#) (with saving in [art. 12](#) and subject to transitional provisions and savings in [Sch. 1](#)); s. 1130 in force for further specified purposes at 6.4.2008 and 1.10.2008 by [S.I. 2007/3495](#), [arts. 3\(3\)\(g\)](#), [5\(3\)\(a\)](#) (with savings in [arts. 7, 12](#)); s. 1130 otherwise in force at 1.10.2009 by [S.I. 2008/2860](#), [art. 3\(s\)](#) (with [arts. 5, 7, 8](#), [Sch. 2](#)) (as amended by [S.I. 2009/1802](#), [art. 18](#))

### 1131 Imprisonment on summary conviction in England and Wales: transitory provision

- (1) This section applies to any provision of the Companies Acts that provides that a person guilty of an offence is liable on summary conviction in England and Wales to imprisonment for a term not exceeding twelve months.
- (2) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), for “twelve months” substitute “six months”.

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

- C70** Ss. 1125-1132 applied (with modifications) (1.10.2008) by [The Limited Liability Partnerships \(Accounts and Audit\) \(Application of Companies Act 2006\) Regulations 2008 \(S.I. 2008/1911\)](#), [reg. 50](#) (as amended (1.10.2009) by [The Limited Liability Partnerships \(Application of Companies Act 2006\) Regulations 2009 \(S.I. 2009/1804\)](#), [regs. 2, 85](#), [Sch. 3 para. 15\(4\)](#))
- C71** Ss. 1127-1133 applied (with modifications) (1.10.2009) by [The Limited Liability Partnerships \(Application of Companies Act 2006\) Regulations 2009 \(S.I. 2009/1804\)](#), [regs. 2, 73](#)
- C72** S. 1131 applied (with modifications) (E.W.) (2.1.2013) by [The Charitable Incorporated Organisations \(General\) Regulations 2012 \(S.I. 2012/3012\)](#), [regs. 1, 60\(2\)\(3\)](#)
- C73** S. 1131 applied (with modifications) (E.W.) (2.1.2013) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) Regulations 2012 \(S.I. 2012/3013\)](#), [regs. 1, 15\(1\)\(2\)](#)

#### Commencement Information

**I11** S. 1131 wholly in force at 1.10.2009; s. 1131 not in force at Royal Assent, see s. 1300; s. 1131 in force for specified purposes at 20.1.2007 by [S.I. 2006/3428](#), [art. 3\(2\)\(b\)](#) (subject to [art. 5](#), [Sch. 1](#) and with [arts. 6, 8](#), [Sch. 5](#)); s. 1131 in force for further specified purposes at 6.4.2007 by [S.I. 2007/1093](#), [art. 2\(2\)\(c\)](#) (with [art. 11\(1\)](#)); s. 1131 in force for further specified purposes at 1.10.2007 by [S.I. 2007/2194](#), [art. 2\(1\)\(l\)\(3\)\(h\)](#) (with saving in [art. 12](#) and subject to transitional provisions and savings in [Sch. 1](#)); s. 1131 in force for further specified purposes at 6.4.2008 and 1.10.2008 by [S.I. 2007/3495](#), [arts. 3\(3\)\(g\)](#), [5\(3\)\(a\)](#) (with savings in [arts. 7, 12](#)); s. 1131 otherwise in force at 1.10.2009 by [S.I. 2008/2860](#), [art. 3\(s\)](#) (with [arts. 5, 7, 8](#), [Sch. 2](#)) (as amended by [S.I. 2009/1802](#), [art. 18](#))

### *Production and inspection of documents*

### 1132 Production and inspection of documents where offence suspected

- (1) An application under this section may be made—
  - (a) in England and Wales, to a judge of the High Court by the Director of Public Prosecutions, the Secretary of State or a chief officer of police;

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- (b) in Scotland, to one of the Lords Commissioners of Justiciary by the Lord Advocate;
  - (c) in Northern Ireland, to the High Court by the Director of Public Prosecutions for Northern Ireland, the Department of Enterprise, Trade and Investment or a chief superintendent of the Police Service of Northern Ireland.
- (2) If on an application under this section there is shown to be reasonable cause to believe—
- (a) that any person has, while an officer of a company, committed an offence in connection with the management of the company's affairs, and
  - (b) that evidence of the commission of the offence is to be found in any documents in the possession or control of the company,
- an order under this section may be made.
- (3) The order may—
- (a) authorise any person named in it to inspect the documents in question, or any of them, for the purpose of investigating and obtaining evidence of the offence, or
  - (b) require the secretary of the company, or such other officer of it as may be named in the order, to produce the documents (or any of them) to a person named in the order at a place so named.
- (4) This section applies also in relation to documents in the possession or control of a person carrying on the business of banking, so far as they relate to the company's affairs, as it applies to documents in the possession or control of the company, except that no such order as is referred to in subsection (3)(b) may be made by virtue of this subsection.
- (5) The decision under this section of a judge of the High Court, any of the Lords Commissioners of Justiciary or the High Court is not appealable.
- (6) In this section “document” includes information recorded in any form.

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

- C74** S. 1132 applied (6.4.2007) by [The Companies Acts \(Unregistered Companies\) Regulations 2007 \(S.I. 2007/318\)](#), [reg. 3](#), [Sch.](#) (with [reg. 6](#))
- C75** Ss. 1125-1132 applied (with modifications) (1.10.2008) by [The Limited Liability Partnerships \(Accounts and Audit\) \(Application of Companies Act 2006\) Regulations 2008 \(S.I. 2008/1911\)](#), [reg. 50](#) (as amended (1.10.2009) by [The Limited Liability Partnerships \(Application of Companies Act 2006\) Regulations 2009 \(S.I. 2009/1804\)](#), [regs. 2, 85](#), [Sch. 3 para. 15\(4\)](#))
- C76** Ss. 1127-1133 applied (with modifications) (1.10.2009) by [The Limited Liability Partnerships \(Application of Companies Act 2006\) Regulations 2009 \(S.I. 2009/1804\)](#), [regs. 2, 73](#)
- C77** S. 1132 applied (with modifications) (E.W.) (2.1.2013) by [The Charitable Incorporated Organisations \(General\) Regulations 2012 \(S.I. 2012/3012\)](#), [regs. 1, 23\(5\)\(6\)\(9\), 60\(2\)-\(4\)](#)
- C78** S. 1132 applied (with modifications) (E.W.) (2.1.2013) by [The Charitable Incorporated Organisations \(Insolvency and Dissolution\) Regulations 2012 \(S.I. 2012/3013\)](#), [regs. 1, 15\(1\)-\(3\)](#)
- C79** S. 1132 applied (26.5.2015) by [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), [s. 164\(3\)\(g\)\(ii\)](#), [Sch. 4 para. 19\(e\)](#)

#### **Commencement Information**

- I12** S. 1132 wholly in force at 1.10.2009; s. 1132 not in force at Royal Assent, see s. 1300; s. 1132 in force for specified purposes at 6.4.2007 by [S.I. 2007/1093](#), [art. 2\(2\)\(c\)](#) (with [art. 11\(1\)](#)); s. 1132 in force for

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further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(3)(h)** (with saving in **art. 12** and subject to transitional provisions and savings in **Sch. 1**); s. 1132 in force for further specified purposes at 6.4.2008 and 1.10.2008 by S.I. 2007/3495, **arts. 3(3)(g), 5(3)(a)** (with savings in **arts. 7, 12**); s. 1132 otherwise in force at 1.10.2009 by S.I. 2008/2860, **art. 3(s)** (with **arts. 5, 7, 8, Sch. 2**) (as amended by S.I. 2009/1802, **art. 18**)

### *Supplementary*

#### **1133 Transitional provision**

The provisions of this Part except section 1132 do not apply to offences committed before the commencement of the relevant provision.

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

**C80** Ss. 1127-1133 applied (with modifications) (1.10.2009) by **The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009** (S.I. 2009/1804), **regs. 2, 73**

#### **Commencement Information**

**113** S. 1133 wholly in force at 1.10.2009; s. 1133 not in force at Royal Assent, see s. 1300; s. 1133 in force for specified purposes at 20.1.2007 by S.I. 2006/3428, **art. 3(2)(b)** (subject to **art. 5, Sch. 1** and with **arts. 6, 8, Sch. 5**); s. 1133 in force for further specified purposes at 6.4.2007 by S.I. 2007/1093, **art. 2(2)(c)** (with **art. 11(1)**); s. 1133 in force for further specified purposes at 1.10.2007 by S.I. 2007/2194, **art. 2(1)(3)(h)** (with saving in **art. 12** and subject to transitional provisions and savings in **Sch. 1**); s. 1133 in force for further specified purposes at 6.4.2008 and 1.10.2008 by S.I. 2007/3495, **arts. 3(3)(g), 5(3)(a)** (with savings in **arts. 7, 12**); s. 1133 otherwise in force at 20.1.2007 by S.I. 2008/2860, **art. 3(s)** (with **arts. 5, 7, 8, Sch. 2**) (as amended by S.I. 2009/1802, **art. 18**)

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**Changes to legislation:**

There are currently no known outstanding effects for the Companies Act 2006, Part 36.