



Companies Act 1985

1985 CHAPTER 6

PART VII

ACCOUNTS AND AUDIT

CHAPTER I

PROVISIONS APPLYING TO COMPANIES GENERALLY

[^{F1} Revision of defective accounts and reports]

Textual Amendments

- F1** New ss. 245–245C inserted (subject to the saving and transitional provisions in [S.I. 1990/2569, art. 6](#)) by [Companies Act 1989 \(c. 40, SIF 27\), ss. 1, 12, 213\(2\)](#) as part of the text inserted in place of ss. 221–262 (as mentioned in s. 1(a) of the 1989 Act)

245 Voluntary revision of annual accounts or directors' report.

- (1) If it appears to the directors of a company that any annual accounts [^{F2}or summary financial statement] of the company, or any directors' report [^{F3}or directors' remuneration report], did not comply with the requirements of this Act [^{F4}(or, where applicable, of Article 4 of the IAS Regulation)], they may prepare revised accounts or a [^{F5}revised statement or report].
- (2) Where copies of the previous accounts or report have been laid before the company in general meeting or delivered to the registrar, the revisions shall be confined to—
 - (a) the correction of those respects in which the previous accounts or report did not comply with the requirements of this Act, [^{F4}(or, where applicable, of Article 4 of the IAS Regulation)] and
 - (b) the making of any necessary consequential alterations.

Status: Point in time view as at 12/11/2004. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Companies Act 1985, Cross Heading: Revision of defective accounts and reports. (See end of Document for details)

- (3) The Secretary of State may make provision by regulations as to the application of the provisions of this Act in relation to revised annual accounts [^{F6}or a revised summary financial statement] or a revised directors' report [^{F7}or a revised directors' remuneration report] .
- (4) The regulations may, in particular—
- (a) make different provision according to whether the previous accounts [^{F8}, statement or report] are replaced or are supplemented by a document indicating the corrections to be made;
 - (b) make provision with respect to the functions of the company's auditors [^{F9}or reporting accountant] in relation to the revised accounts [^{F8}, statement or report];
 - (c) require the directors to take such steps as may be specified in the regulations where the previous accounts or report have been —
 - (i) sent out to members and others under section 238(1),
 - (ii) laid before the company in general meeting, or
 - (iii) delivered to the registrar,
 or where a summary financial statement based on the previous accounts or report has been sent to members under section 251;
 - (d) apply the provisions of this Act (including those creating criminal offences) subject to such additions, exceptions and modifications as are specified in the regulations.
- (5) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F2** Words in s. 245(1) inserted (12.11.2004 with effect as mentioned in reg. 1(2) of the amending S.I.) by [The Companies Act 1985 \(International Accounting Standards and Other Accounting Amendments\) Regulations 2004 \(S.I. 2004/2947\)](#), **reg. 10(2)(a)**
- F3** Words in s. 245(1) inserted (1.8.2002) by [The Directors' Remuneration Report Regulations 2002 \(S.I. 2002/1986\)](#), **reg. 10(9)(a)**
- F4** Words in ss. 245-245C inserted (12.11.2004 with effect as mentioned in reg. 1(2) of the amending S.I.) by [The Companies Act 1985 \(International Accounting Standards and Other Accounting Amendments\) Regulations 2004 \(S.I. 2004/2947\)](#), reg. 3, **Sch. 1 para. 11**
- F5** Words in s. 245(1) substituted (12.11.2004 with effect as mentioned in reg. 1(2) of the amending S.I.) by [The Companies Act 1985 \(International Accounting Standards and Other Accounting Amendments\) Regulations 2004 \(S.I. 2004/2947\)](#), **reg. 10(2)(b)**
- F6** Words in s. 245(3) inserted (12.11.2004 with effect as mentioned in reg. 1(2) of the amending S.I.) by [The Companies Act 1985 \(International Accounting Standards and Other Accounting Amendments\) Regulations 2004 \(S.I. 2004/2947\)](#), **reg. 10(3)**
- F7** Words in s. 245(3) inserted (1.8.2002) by [The Directors' Remuneration Report Regulations 2002 \(S.I. 2002/1986\)](#), **reg. 10(9)(b)**
- F8** Words in s. 245(4)(a)(b) substituted (12.11.2004 with effect as mentioned in reg. 1(2) of the amending S.I.) by [The Companies Act 1985 \(International Accounting Standards and Other Accounting Amendments\) Regulations 2004 \(S.I. 2004/2947\)](#), **reg. 10(4)**
- F9** Words in s. 245(4)(b) inserted (11.8.1994) by S.I. 1994/1935, reg. 4, **Sch. 1 Pt. I para. 2**

Modifications etc. (not altering text)

- C1** S. 245(1) and (2) excluded by S.I. 1990/2569, **art. 6(2)**

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[^{F10}245A Secretary of State's notice in respect of annual accounts.

- (1) Where copies of a company's annual accounts have been sent out under section 238, or a copy of a company's annual accounts has been laid before the company in general meeting or delivered to the registrar, and it appears to the Secretary of State that there is, or may be, a question of whether the accounts comply with the requirements of this Act [^{F11}(or, where applicable, of Article 4 of the IAS Regulation)], he may give notice to the directors of the company indicating the respects in which it appears to him that such a question arises, or may arise.
- (2) The notice shall specify a period of not less than one month for the directors to give him an explanation of the accounts or prepare revised accounts.
- (3) If at the end of the specified period, or such longer period as he may allow, it appears to the Secretary of State that no satisfactory explanation of the accounts has been given and that the accounts have not been revised so as to comply with the requirements of this Act, he may if he thinks fit apply to the court.
- (4) The provisions of this section shall apply equally to revised annual accounts, in which case the references to revised accounts shall be read as references to further revised accounts.]

Textual Amendments

F10 New ss. 245–245C inserted (subject to the saving and transitional provisions in [S.I. 1990/2569, art. 6](#)) by [Companies Act 1989 \(c. 40, SIF 27\)](#), [ss. 1, 12, 213\(2\)](#) as part of the text inserted in place of ss. 221–262 (as mentioned in s. 1(a) of the 1989 Act)

F11 Words in [ss. 245-245C](#) inserted (12.11.2004 with effect as mentioned in reg. 1(2) of the amending S.I.) by [The Companies Act 1985 \(International Accounting Standards and Other Accounting Amendments\) Regulations 2004 \(S.I. 2004/2947\)](#), reg. 3, [Sch. 1 para. 11](#)

Modifications etc. (not altering text)

C2 [Ss. 245A and 245B](#) excluded by [S.I. 1990/2569, art. 6\(2\)](#)

[^{F12}245B Application to court in respect of defective accounts.

- (1) An application may be made to the court—
 - (a) by the Secretary of State, after having complied with section 245A, or
 - (b) by a person authorised by the Secretary of State for the purposes of this section,for a declaration or declarator that the annual accounts of a company do not comply with the requirements of this Act [^{F13}(or, where applicable, of Article 4 of the IAS Regulation)] and for an order requiring the directors of the company to prepare revised accounts.
- (2) Notice of the application, together with a general statement of the matters at issue in the proceedings, shall be given by the applicant to the registrar for registration.
- (3) If the court orders the preparation of revised accounts, it may give directions with respect to—
 - (a) the auditing of the accounts,
 - (b) the revision of any directors' report [^{F14}, directors' remuneration report] or summary financial statement, and

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- (c) the taking of steps by the directors to bring the making of the order to the notice of persons likely to rely on the previous accounts, and such other matters as the court thinks fit.
- (4) If the court finds that the accounts did not comply with the requirements of this Act [^{F13}(or, where applicable, of Article 4 of the IAS Regulation)] it may order that all or part of—
- (a) the costs (or in Scotland expenses) of and incidental to the application, and
 - (b) any reasonable expenses incurred by the company in connection with or in consequence of the preparation of revised accounts,
- shall be borne by such of the directors as were party to the approval of the defective accounts.
- For this purpose every director of the company at the time the accounts were approved shall be taken to have been a party to their approval unless he shows that he took all reasonable steps to prevent their being approved.
- (5) Where the court makes an order under subsection (4) it shall have regard to whether the directors party to the approval of the defective accounts knew or ought to have known that the accounts did not comply with the requirements of this Act [^{F13}(or, where applicable, of Article 4 of the IAS Regulation)], and it may exclude one or more directors from the order or order the payment of different amounts by different directors.
- (6) On the conclusion of proceedings on an application under this section, the applicant shall give to the registrar for registration an office copy of the court order or, as the case may be, notice that the application has failed or been withdrawn.
- (7) The provisions of this section apply equally to revised annual accounts, in which case the references to revised accounts shall be read as references to further revised accounts.]

Textual Amendments

- F12** New ss. 245–245C inserted (subject to the saving and transitional provisions in [S.I. 1990/2569, art. 6](#)) by [Companies Act 1989 \(c. 40, SIF 27\)](#), [ss. 1, 12, 213\(2\)](#) as part of the text inserted in place of ss. 221–262 (as mentioned in s. 1(a) of the 1989 Act)
- F13** Words in [ss. 245-245C](#) inserted (12.11.2004 with effect as mentioned in reg. 1(2) of the amending S.I.) by [The Companies Act 1985 \(International Accounting Standards and Other Accounting Amendments\) Regulations 2004 \(S.I. 2004/2947\)](#), [reg. 3, Sch. 1 para. 11](#)
- F14** Words in [s. 245B\(3\)\(b\)](#) inserted (1.8.2002) by [The Directors' Remuneration Report Regulations 2002 \(S.I. 2002/1986\)](#), [reg. 10\(10\)](#)

Modifications etc. (not altering text)

- C3** [Ss. 245A](#) and [245B](#) excluded by [S.I. 1990/2569, art. 6\(2\)](#)

[^{F15}245C] Other persons authorised to apply to court.

- (1) The Secretary of State may authorise for the purposes of section 245B any person appearing to him—

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- (a) to have an interest in, and to have satisfactory procedures directed to securing, compliance by companies with the accounting requirements of this Act, [F16(or, where applicable, of Article 4 of the IAS Regulation)]
 - (b) to have satisfactory procedures for receiving and investigating complaints about the annual accounts of companies, and
 - (c) otherwise to be a fit and proper person to be authorised.
- (2) A person may be authorised generally or in respect of particular classes of case, and different persons may be authorised in respect of different classes of case.
- (3) The Secretary of State may refuse to authorise a person if he considers that his authorisation is unnecessary having regard to the fact that there are one or more other persons who have been or are likely to be authorised.
- (4) Authorisation shall be by order made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Where authorisation is revoked, the revoking order may make such provision as the Secretary of State thinks fit with respect to pending proceedings.
- (6) Neither a person authorised under this section, nor any officer, servant or member of the governing body of such a person, shall be liable in damages for anything done or purporting to be done for the purposes of or in connection with—
 - (a) the taking of steps to discover whether there are grounds for an application to the court,
 - (b) the determination whether or not to make such an application, or
 - (c) the publication of its reasons for any such decision,unless the act or omission is shown to have been in bad faith.]

Textual Amendments

- F15** New ss. 245–245C inserted (subject to the saving and transitional provisions in [S.I. 1990/2569, art. 6](#)) by [Companies Act 1989 \(c. 40, SIF 27\)](#), [ss. 1, 12, 213\(2\)](#) as part of the text inserted in place of ss. 221–262 (as mentioned in s. 1(a) of the 1989 Act)
- F16** Words in [ss. 245–245C](#) inserted (12.11.2004 with effect as mentioned in reg. 1(2) of the amending S.I.) by [The Companies Act 1985 \(International Accounting Standards and Other Accounting Amendments\) Regulations 2004 \(S.I. 2004/2947\)](#), reg. 3, [Sch. 1 para. 11](#)

VALID FROM 06/04/2005

245D Disclosure of information held by Inland Revenue to persons authorised to apply to court

- (1) Information which is held by or on behalf of the Commissioners of Inland Revenue may be disclosed to a person who is authorised under section 245C of this Act, or under Article 253C of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)), if the disclosure—
 - (a) is made for a permitted purpose, and
 - (b) is made by the Commissioners or is authorised by them.
- (2) Such information—

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- (a) may be so disclosed despite any other restriction on the disclosure of information whether imposed by any statutory provision or otherwise, but
 - (b) in the case of personal data (within the meaning of the Data Protection Act 1998), may not be disclosed in contravention of that Act.
- (3) For the purposes of subsection (1), a disclosure is made for a permitted purpose if it is made for the purpose of facilitating—
- (a) the taking of steps by the authorised person to discover whether there are grounds for an application to the court under section 245B of this Act or Article 253B of the Companies (Northern Ireland) Order 1986; or
 - (b) a determination by the authorised person as to whether or not to make such an application.
- (4) The power of the Commissioners to authorise a disclosure under subsection (1)(b) may be delegated (either generally or for a specified purpose) to an officer of the Board of Inland Revenue.

Modifications etc. (not altering text)

- C4** S. 245D applied (6.4.2005) by [Companies \(Audit, Investigations and Community Enterprise\) Act 2004](#) (c. 27), [ss. 15, 65](#); [S.I. 2004/3322](#), [art. 2\(2\)](#), Sch. 2 (subject to arts. 3-13)

VALID FROM 06/04/2005

245E Restrictions on use and further disclosure of information disclosed under section 245D

- (1) Information that is disclosed to an authorised person under section 245D may not be used except in or in connection with—
- (a) taking steps to discover whether there are grounds for an application to the court as mentioned in section 245D(3)(a);
 - (b) determining whether or not to make such an application; or
 - (c) proceedings on any such application.
- (2) Information that is disclosed to an authorised person under section 245D may not be further disclosed except—
- (a) to the person to whom the information relates; or
 - (b) in or in connection with proceedings on any such application to the court.
- (3) A person who contravenes subsection (1) or (2) is guilty of an offence and liable to imprisonment or a fine, or both.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove—
- (a) that he did not know, and had no reason to suspect, that the information had been disclosed under section 245D; or
 - (b) that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

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- (5) Sections 732 (restriction on prosecutions), 733(2) and (3) (liability of individuals for corporate default) and 734 (criminal proceedings against unincorporated bodies) apply to offences under this section.

Modifications etc. (not altering text)

- C5** S. 245E applied (with modifications) (6.4.2005) by Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27), ss. 15, 65; S.I. 2004/3322, art. 2(2), Sch. 2 (subject to arts. 3-13)

VALID FROM 06/04/2005

245F Power of authorised persons to require documents, information and explanations

- (1) This section applies where it appears to a person who is authorised under section 245C of this Act that there is, or may be, a question whether the [^{F17} a company's annual accounts, directors' report or operating and financial review] comply with the requirements of this Act [^{F18}(or, where applicable, of Article 4 of the IAS Regulation)] .
- (2) The authorised person may require any of the persons mentioned in subsection (3) to produce any document, or to provide him with any information or explanations, that he may reasonably require for the purpose of—
- discovering whether there are grounds for an application to the court under section 245B; or
 - determining whether or not to make such an application.
- (3) Those persons are—
- the company;
 - any officer, employee, or auditor of the company;
 - any persons who fell within paragraph (b) at a time to which the document or information required by the authorised person relates.
- (4) If a person fails to comply with a requirement under subsection (2), the authorised person may apply to the court for an order under subsection (5).
- (5) If on such an application the court decides that the person has failed to comply with the requirement under subsection (2), it may order the person to take such steps as it directs for securing that the documents are produced or the information or explanations are provided.
- (6) A statement made by a person in response to a requirement under subsection (2) or an order under subsection (5) may not be used in evidence against him in any criminal proceedings.
- (7) Nothing in this section compels any person to disclose documents or information in respect of which in an action in the High Court a claim to legal professional privilege, or in an action in the Court of Session a claim to confidentiality of communications, could be maintained.

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(8) In this section “document” includes information recorded in any form.

Textual Amendments

F17 Words in s. 245F(1) substituted (22.3.2005) by The Companies Act 1985 (Operating and Financial Review and Directors' Report etc.) Regulations 2005 (S.I. 2005/1011), **reg. 18**

F18 Words in s. 245F(1) inserted (22.3.2005) by The Companies Act 1985 (Operating and Financial Review and Directors' Report etc.) Regulations 2005 (S.I. 2005/1011), **reg. 19, Sch. para. 6**

Modifications etc. (not altering text)

C6 S. 245F applied (with modifications) (6.4.2005) by Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27), **ss. 15, 65**; S.I. 2004/3322, **art. 2(2)**, Sch. 2 (subject to arts. 3-13)

VALID FROM 06/04/2005

245G Restrictions on further disclosure of information obtained under section 245F

- (1) This section applies to information (in whatever form) which—
 - (a) has been obtained in pursuance of a requirement or order under section 245F, and
 - (b) relates to the private affairs of an individual or to any particular business.
- (2) No such information may, during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.
- (3) Subsection (2) does not apply to any disclosure of information which—
 - (a) is made for the purpose of facilitating the carrying out by a person authorised under section 245C of his functions under section 245B;
 - (b) is made to a person specified in Part 1 of Schedule 7B;
 - (c) is of a description specified in Part 2 of that Schedule; or
 - (d) is made in accordance with Part 3 of that Schedule.
- (4) The Secretary of State may by order amend Schedule 7B.
- (5) An order under subsection (4) must not—
 - (a) amend Part 1 of Schedule 7B by specifying a person unless the person exercises functions of a public nature (whether or not he exercises any other function);
 - (b) amend Part 2 of Schedule 7B by adding or modifying a description of disclosure unless the purpose for which the disclosure is permitted is likely to facilitate the exercise of a function of a public nature;
 - (c) amend Part 3 of Schedule 7B so as to have the effect of permitting disclosures to be made to a body other than one that exercises functions of a public nature in a country or territory outside the United Kingdom.
- (6) An order under subsection (4) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) A person who discloses any information in contravention of this section—

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- (a) is guilty of an offence, and
 - (b) is liable on conviction to imprisonment or a fine, or both.
- (8) However, it is a defence for a person charged with an offence under subsection (7) to prove—
- (a) that he did not know, and had no reason to suspect, that the information had been disclosed under section 245F; or
 - (b) that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.
- (9) Sections 732 (restriction on prosecutions), 733 (liability of individuals for corporate default) and 734 (criminal proceedings against unincorporated bodies) apply to offences under this section.
- (10) This section does not prohibit the disclosure of information if the information is or has been available to the public from any other source.
- (11) Nothing in this section authorises the making of a disclosure in contravention of the Data Protection Act 1998.

Modifications etc. (not altering text)

- C7** S. 245G applied (with modifications) (6.4.2005) by Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27), ss. 15, 65; S.I. 2004/3322, art. 2(2), Sch. 2 (subject to arts. 3-13)

Status:

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