



# Banking Act 1987 (repealed)

## 1987 CHAPTER 22

### PART I

#### REGULATION OF DEPOSIT-TAKING BUSINESS

##### *Accounts and auditors*

#### **45 Audited accounts to be open to inspection.**

- (1) An authorised institution shall at each of its offices in the United Kingdom at which it holds itself out as accepting deposits—
  - (a) keep a copy of its most recent audited accounts; and
  - (b) during normal business hours make that copy available for inspection by any person on request.
- (2) An institution which fails to comply with paragraph (a) of subsection (1) above or with any request made in accordance with paragraph (b) of that subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fifth level on the standard scale.
- (3) In the case of an institution incorporated in the United Kingdom the accounts referred to in subsection (1) above include the auditors' report on the accounts and, in the case of any other institution whose accounts are audited, the report of the auditors.

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

- C1 S. 45 modified (02.12.1991) by S.I. 1991/2704, reg. 5(4)
- C2 S. 45 amended (1.1.1993) by S.I. 1992/3218, reg. 47, Sch. 8 para.11.

#### **46 Notification in respect of auditors.**

- (1) An authorised institution incorporated in the United Kingdom shall forthwith give written notice to the [<sup>F1</sup>Authority] if the institution—

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- (a) proposes to give special notice to its shareholders of an ordinary resolution removing an auditor before the expiration of his term of office; or
- (b) gives notice to its shareholders of an ordinary resolution replacing an auditor at the expiration of his term of office with a different auditor,
- or if a person ceases to be an auditor of the institution otherwise than in consequence of such a resolution.
- (2) An auditor of an authorised institution [<sup>F2</sup>appointed under Chapter V of Part XI] of the <sup>M1</sup>Companies Act 1985 shall forthwith give written notice to the [<sup>F1</sup>Authority] if he—
- (a) resigns before the expiration of his term of office;
- (b) does not seek to be re-appointed; or
- (c) decides to include in his report on the institution’s accounts any qualification as to a matter mentioned in [<sup>F3</sup>section 235(2)] or any statement pursuant to [<sup>F3</sup>section 235(3) or section 237] of that Act.
- (3) The foregoing provisions of this section shall apply to a former authorised institution as they apply to an authorised institution.
- (4) In the application of subsection (2) above to Northern Ireland for the references to [<sup>F4</sup>Chapter V of Part XI and sections][<sup>F5</sup>235(2) and 235(3) and 237] of the Companies Act 1985 there shall be substituted references to [<sup>F6</sup>[<sup>F7</sup>Chapter V of Part XII and Articles], 243(2), 243(3) and 245] of the Companies (Northern Ireland) Order 1986.
- (5) An institution or auditor who fails to comply with this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fifth level on the standard scale.

#### Textual Amendments

- F1** Words in s. 46 substituted (1.6.1998) by 1998 c. 11, s. 23, **Sch. 5 Pt. I Ch. I para. 13**; S.I. 1998/1120, **art. 2**
- F2** Words substituted by **Companies Act 1989 (c. 40, SIF 27), s. 119(3)** (the substitution being in force 1.4.1990 subject to transitional and saving provisions referred to in art. 4(a) of S.I. 1990/355)
- F3** Words substituted by **Companies Act 1989 (c. 40, SIF 27), s. 23, Sch. 10 para. 37(2)**
- F4** Words substituted (1.4.1990 subject to the transitional and saving provisions referred to in art. 4(a) of S.I. 1990/355) for the words “sections 384” by **Companies Act 1989 (c. 40, SIF 27), s. 119(3)**
- F5** Words substituted by **Companies Act 1989 (c. 40, SIF 27), s. 23, Sch. 10 para. 37(2)**
- F6** Words substituted by **S.I. 1990/593 (N.I. 5), art. 25, Sch. 10 Pt. II para. 29** (subject to the savings and transitional provisions referred to in **S.R. 1990/246art. 4**)
- F7** Words in s. 46(4) substituted (11.03.1991) by S.I. 1990/1504 (N.I. 10), **art. 54(3)**; S.R. 1991/26, arts. 3(a), 4, **Sch.**

#### Marginal Citations

- M1** 1985 c. 6.

## 47 Communication by auditor etc. with the [<sup>F8</sup>Authority].

- (1) No duty to which—
- (a) an auditor of an authorised institution; or
- (b) a person appointed to make a report under section 8(5) or 39(1)(b) above, [<sup>F9</sup> or

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- (c) an auditor of a body with which an authorised institution which is a credit institution is closely linked by control who is also either—
- (i) an auditor of the institution; or
  - (ii) a person appointed to make a report under section 8(5) or 39(1)(b) above in respect of the institution.]

may be subject shall be regarded as contravened by reason of his communicating in good faith to the [F<sup>8</sup>Authority], whether or not in response to a request made by it, any information or opinion on a matter to which this section applies and which is relevant to any function of the [F<sup>8</sup>Authority] under this Act.

- (2) In relation to an auditor of an authorised institution this section applies to any matter of which he becomes aware in his capacity as auditor and which relates to the business or affairs of the institution or any associated body.
- (3) In relation to a person appointed to make a report under section 8(5) or 39(1)(b) above this section applies to any matter of which he becomes aware in his capacity as the person making the report and which—
- (a) relates to the business of affairs of the institution in relation to which his report is made or any associated body of that institution; or
  - (b) if by virtue of section 39(6) or (7) above the report relates to an associated body of an institution, to the business or affairs of that body.

[F<sup>10</sup>(3A) In relation to an auditor of a body with which an authorised institution which is a credit institution is closely linked by control, this section applies to any matter of which he becomes aware in his capacity as auditor of the body and which relates to the business or affairs of the institution.]

- (4) In this section “associated body”, in relation to an institution, means any such body as is mentioned in section 39(6) or (7) above.
- (5) If it appears to the Treasury that any accountants or class of accountants who are persons to whom subsection (1) above applies are not subject to satisfactory rules made or guidance issued by a professional body specifying circumstances in which matters are to be communicated to the [F<sup>8</sup>Authority] as mentioned in that subsection the Treasury may, after consultation with the [F<sup>8</sup>Authority] and such bodies as appear to the Treasury to represent the interests of accountants and authorised institutions, make regulations applying to those accountants and specifying such circumstances; and it shall be the duty of an accountant to whom the regulations apply to communicate a matter to the [F<sup>8</sup>Authority] in the circumstances specified by the regulations.
- (6) Regulations under this section may make different provision for different cases and no such regulations shall be made unless a draft of them has been laid before and approved by a resolution of each House of Parliament.
- (7) This section applies to the auditor of a former authorised institution as it applies to the auditor of an authorised institution.

#### Textual Amendments

- F8** Words in s. 47 substituted (1.6.1998) by 1998 c. 11, s. 23, **Sch. 5 Pt. I Ch. I para. 13**; S.I. 1998/1120, **art. 2**
- F9** S. 47(1)(c) and word preceding it inserted (18.7.1996) by S.I. 1996/1669, **reg. 4(1)**
- F10** S. 47(3A) inserted (18.7.1996) by S.I. 1996/1669, **reg. 4(2)**

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

**C3** S. 47 amended (1.1.1993) by S.I. 1992/3218, reg. 47, **Sch. 8 para. 12.**

**Status:**

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