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Changes to legislation: There are currently no known outstanding effects for the Companies Act 1989, SCHEDULE 12. (See end of Document for details)

SCHEDULES

SCHEDULE 12 **E+W+S**

Section 32(4).

RECOGNITION OF PROFESSIONAL QUALIFICATION

PART I **E+W+S**

GRANT AND REVOCATION OF RECOGNITION

Application for recognition of professional qualification

- 1 (1) A qualifying body may apply to the Secretary of State for an order declaring a qualification offered by it to be a recognised professional qualification for the purposes of this Part of this Act.
- (2) Any such application—
 - (a) shall be made in such manner as the Secretary of State may direct, and
 - (b) shall be accompanied by such information as the Secretary of State may reasonably require for the purpose of determining the application.
- (3) At any time after receiving an application and before determining it the Secretary of State may require the applicant to furnish additional information.
- (4) The directions and requirements given or imposed under sub-paragraphs (2) and (3) may differ as between different applications.
- (5) Any information to be furnished to the Secretary of State under this section shall, if he so requires, be in such form or verified in such manner as he may specify.

In the case of examination standards, the verification required may include independent moderation of the examinations over such period as the Secretary of State considers necessary.
- (6) Every application shall be accompanied by a copy of the applicant's rules and of any guidance issued by it which is intended to have continuing effect and is issued in writing or other legible form.

Grant and refusal of recognition

- 2 (1) The Secretary of State may, on an application duly made in accordance with paragraph 1 and after being furnished with all such information as he may require under that paragraph, make or refuse to make an order (a "recognition order") declaring the qualification in respect of which the application was made to be a recognised professional qualification for the purposes of this Part of this Act.

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In this Part of this Act a “recognised qualifying body” means a qualifying body offering a recognised professional qualification.

- (2) The Secretary of State shall not make a recognition order unless it appears to him, from the information furnished by the applicant and having regard to any other information in his possession, that the requirements of Part II of this Schedule are satisfied as respects the qualification.
- (3) Where the Secretary of State refuses an application for a recognition order he shall give the applicant a written notice to that effect specifying which requirements, in his opinion, are not satisfied.
- (4) A recognition order shall state the date on which it takes effect.

Revocation of recognition

- 3 (1) A recognition order may be revoked by a further order made by the Secretary of State if at any time it appears to him—
 - (a) that any requirement of Part II of this Schedule is not satisfied in relation to the qualification to which the recognition order relates, or
 - (b) that the qualifying body has failed to comply with any obligation to which it is subject by virtue of this Part of this Act.
- (2) An order revoking a recognition order shall state the date on which it takes effect and that date shall not be earlier than three months after the day on which the revocation order is made.
- (3) Before revoking a recognition order the Secretary of State shall give written notice of his intention to do so to the qualifying body, take such steps as he considers reasonably practicable for bringing the notice to the attention of persons holding the qualification or in the course of studying for it and publish it in such manner as he thinks appropriate for bringing it to the attention of any other persons who are in his opinion likely to be affected.
- (4) A notice under sub-paragraph (3) shall state the reasons for which the Secretary of State proposes to act and give particulars of the rights conferred by sub-paragraph (5).
- (5) A body on which a notice is served under sub-paragraph (3), any person holding the qualification or in the course of studying for it and any other person who appears to the Secretary of State to be affected may within three months after the date of service or publication, or within such longer time as the Secretary of State may allow, make written representations to the Secretary of State and, if desired, oral representations to a person appointed for that purpose by the Secretary of State; and the Secretary of State shall have regard to any representations made in accordance with this subsection in determining whether to revoke the recognition order.
- (6) If in any case the Secretary of State considers it essential to do so in the public interest he may revoke a recognition order without regard to the restriction imposed by sub-paragraph (2) and notwithstanding that no notice has been given or published under sub-paragraph (3) or that the time for making representations in pursuance of such a notice has not expired.

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- (7) An order revoking a recognition order may contain such transitional provisions as the Secretary of State thinks necessary or expedient.
- (8) A recognition order may be revoked at the request or with the consent of the qualifying body and any such revocation shall not be subject to the restrictions imposed by sub-paragraphs (1) and (2) or the requirements of sub-paragraphs (3) to (5).
- (9) On making an order revoking a recognition order the Secretary of State shall give the qualifying body written notice of the making of the order, take such steps as he considers reasonably practicable for bringing the making of the order to the attention of persons holding the qualification or in the course of studying for it and publish a notice of the making of the order in such manner as he thinks appropriate for bringing it to the attention of any other persons who are in his opinion likely to be affected.

PART II **E+W+S**

REQUIREMENTS FOR RECOGNITION

Entry requirements

- 4 (1) The qualification must only be open to persons who have attained university entrance level or have a sufficient period of professional experience.
- (2) In relation to a person who has not been admitted to a university or other similar establishment in the United Kingdom, attaining university entrance level means—
 - (a) being educated to such a standard as would entitle him to be considered for such admission on the basis of—
 - (i) academic or professional qualifications obtained in the United Kingdom and recognised by the Secretary of State to be of an appropriate standard, or
 - (ii) academic or professional qualifications obtained outside the United Kingdom which the Secretary of State considers to be of an equivalent standard; or
 - (b) being assessed on the basis of written tests of a kind appearing to the Secretary of State to be adequate for the purpose, with or without oral examination, as of such a standard of ability as would entitle him to be considered for such admission.
- (3) The assessment, tests and oral examination referred to in sub-paragraph (2)(b) may be conducted by the qualifying body or by some other body approved by the Secretary of State.

Course of theoretical instruction

- 5 The qualification must be restricted to persons who have completed a course of theoretical instruction in the subjects prescribed for the purposes of paragraph 7 or have a sufficient period of professional experience.

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Sufficient period of professional experience

- 6 (1) The references in paragraphs 4 and 5 to a sufficient period of professional experience are to not less than seven years' experience in a professional capacity in the fields of finance, law and accountancy.
- (2) Periods of theoretical instruction in the fields of finance, law and accountancy may be deducted from the required period of professional experience, provided the instruction—
- (a) lasted at least one year, and
 - (b) is attested by an examination recognised by the Secretary of State for the purposes of this paragraph;
- but the period of professional experience may not be so reduced by more than four years.
- (3) The period of professional experience together with the practical training required in the case of persons satisfying the requirement in paragraph 5 by virtue of having a sufficient period of professional experience must not be shorter than the course of theoretical instruction referred to in that paragraph and the practical training required in the case of persons satisfying the requirement of that paragraph by virtue of having completed such a course.

Examination

- 7 (1) The qualification must be restricted to persons who have passed an examination (at least part of which is in writing) testing—
- (a) theoretical knowledge of the subjects prescribed for the purposes of this paragraph by regulations made by the Secretary of State, and
 - (b) ability to apply that knowledge in practice,
- and requiring a standard of attainment at least equivalent to that required to obtain a degree from a university or similar establishment in the United Kingdom.
- (2) The qualification may be awarded to a person without his theoretical knowledge of a subject being tested by examination if he has passed a university or other examination of equivalent standard in that subject or holds a university degree or equivalent qualification in it.
- (3) The qualification may be awarded to a person without his ability to apply his theoretical knowledge of a subject in practice being tested by examination if he has received practical training in that subject which is attested by an examination or diploma recognised by the Secretary of State for the purposes of this paragraph.
- (4) Regulations under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Practical training

- 8 (1) The qualification must be restricted to persons who have completed at least three years' practical training of which—

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- (a) part was spent being trained in company audit work, and
- (b) a substantial part was spent being trained in company audit work or other audit work of a description approved by the Secretary of State as being similar to company audit work.

For this purpose “company audit work” includes the work of a person appointed as auditor under the ^{M1}Companies (Northern Ireland) Order 1986 or under the law of a country or territory outside the United Kingdom where it appears to the Secretary of State that the law and practice with respect to the audit of company accounts is similar to that in the United Kingdom.

- (2) The training must be given by persons approved by the body offering the qualification as persons as to whom the body is satisfied, in the light of undertakings given by them and the supervision to which they are subject (whether by the body itself or some other body or organisation), that they will provide adequate training.
- (3) At least two-thirds of the training must be given by a fully-qualified auditor, that is, a person—
 - (a) eligible in accordance with this Part of this Act to be appointed as a company auditor, or
 - (b) satisfying the corresponding requirements of the law of Northern Ireland or another member State of the European Economic Community.

Marginal Citations

M1 S.I. 1986/1032 (N.I. 6).

The body offering the qualification

- 9 (1) The body offering the qualification must have—
 - (a) rules and arrangements adequate to ensure compliance with the requirements of paragraphs 4 to 8, and
 - (b) adequate arrangements for the effective monitoring of its continued compliance with those requirements.
- (2) The arrangements must include arrangements for monitoring the standard of its examinations and the adequacy of the practical training given by the persons approved by it for that purpose.

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