



Companies (Audit, Investigations and Community Enterprise) Act 2004

2004 CHAPTER 27

PART 2

COMMUNITY INTEREST COMPANIES

Supplementary

57 Fees

- (1) Regulations may require the payment of such fees in connection with the Regulator's functions as may be specified in the regulations.
- (2) The regulations may provide for fees to be paid to the registrar of companies (rather than to the Regulator).
- (3) The Regulator may charge a fee for any service which is provided otherwise than in pursuance of an obligation imposed by law, other than the provision of guidance which the Regulator considers to be of general interest.
- (4) Fees paid by virtue of this section are to be paid into the Consolidated Fund.

58 Extension of provisions about registrar etc.

Regulations may make amendments or modifications of any provision contained in—

- (a) Part 24 of the Companies Act 1985 (registrar), or
- (b) Part 25 of that Act (miscellaneous and supplementary),

in consequence of any provision contained in, or made under, this Part (in particular, so as to provide that references to the Companies Acts are to include provisions contained in, or made under, this Part).

59 Information

- (1) Regulations may require the registrar of companies—
 - (a) to notify the Regulator of matters specified in the regulations, and
 - (b) to provide the Regulator with copies of documents specified in the regulations.
- (2) After section 71 of the Bankruptcy (Scotland) Act 1985 (c. 66) insert—

“71A Further duty of Accountant in Bankruptcy

The Accountant in Bankruptcy shall, on receiving any notice under section 109(1) of the Insolvency Act 1986 in relation to a community interest company, forward a copy of that notice to the Regulator of Community Interest Companies.”

- (3) In section 31(2) of the Data Protection Act 1998 (c. 29) (restricted access to data processed for specified purposes)—
 - (a) in paragraphs (b), (c) and (d), after “charities” insert “or community interest companies”, and
 - (b) in paragraph (b), after “trustees” insert “, directors”.
- (4) A public authority may disclose to the Regulator, for any purpose connected with the exercise of the Regulator’s functions, information received by the authority in connection with its functions.
- (5) The Regulator may disclose to a public authority any information received by the Regulator in connection with the functions of the Regulator—
 - (a) for a purpose connected with the exercise of those functions, or
 - (b) for a purpose connected with the exercise by the authority of its functions.
- (6) In deciding whether to disclose information to a public authority in a country or territory outside the United Kingdom the Regulator must have regard to the considerations listed in section 243(6) of the Enterprise Act 2002 (c. 40) (overseas disclosures), but as if the reference to information of a kind to which section 237 of that Act applies were to information of the kind the Regulator is considering disclosing.
- (7) The powers to disclose information in subsections (4) and (5) are subject to—
 - (a) any restriction on disclosure imposed by or by virtue of an enactment, and
 - (b) any express restriction on disclosure subject to which information was supplied.
- (8) Information may be disclosed under subsection (4) or (5) subject to a restriction on its further disclosure.
- (9) A person who discloses information in contravention of a restriction imposed under subsection (8) is guilty of an offence, but a prosecution may be instituted in England or Wales only with the consent of the Regulator or the Director of Public Prosecutions.
- (10) A person guilty of an offence under subsection (9) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (11) “Public authority” means a person or body having functions of a public nature.

60 Offences

- (1) If an offence under this Part committed by a body corporate is proved—
 - (a) to have been committed with the consent or connivance of an officer, or
 - (b) to be attributable to any neglect on the part of an officer,the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) “Officer” means a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in any such capacity.
- (3) “Director”—
 - (a) includes a shadow director, and
 - (b) if the affairs of a body corporate are managed by its members, means a member of the body.

61 Orders made by Regulator

- (1) An order made by the Regulator under this Part must be given to the community interest company in relation to which it is made and—
 - (a) if the order is under section 46(1) or (3), to the director removed or suspended,
 - (b) if the order is under section 48(1)(b) or (2), to the person to whom the order is directed,
 - (c) if the order is under section 49(1), to the persons from and to whom shares are transferred,
 - (d) if the order is under section 49(2), to the person whose interest is extinguished and any person appointed in his place.
- (2) Orders made by the Regulator under or by virtue of this Part may contain any incidental or supplementary provisions the Regulator considers expedient.
- (3) When discharging an order made under or by virtue of this Part, the Regulator may make savings and transitional provisions.
- (4) A document certified by the Regulator to be a true copy of an order made by the Regulator is evidence of the order without further proof; and a document purporting to be so certified shall, unless the contrary is proved, be taken to be so certified.
- (5) Where the Regulator makes an order or decision against which an appeal lies under or by virtue of this Part, the Regulator must give reasons for the order or decision to the persons entitled to appeal against it.

62 Regulations

- (1) Any power to make regulations under this Part is exercisable by the Secretary of State by statutory instrument.
- (2) Regulations under this Part may make different provision for different cases.
- (3) Regulations under this Part may confer or impose functions on the Regulator or any other person specified in the regulations (and, unless made under paragraph 4 of Schedule 4, may provide for appeals to the Appeal Officer from a person on whom functions are conferred by the regulations).

- (4) No regulations to which this subsection applies are to be made unless a draft of the statutory instrument containing the regulations (whether or not together with other provisions) has been laid before, and approved by a resolution of, each House of Parliament.
- (5) Subsection (4) applies to regulations under—
- (a) section 30,
 - (b) section 31,
 - (c) section 32,
 - (d) section 34,
 - (e) section 35,
 - (f) section 36,
 - (g) section 37,
 - (h) section 47, and
 - (i) section 56.
- (6) A statutory instrument containing regulations under this Part is (unless a draft of it has been approved by each House of Parliament under subsection (4)) subject to annulment in pursuance of a resolution of either House of Parliament.

63 Interpretation

- (1) In this Part—

“administrative receiver” has the meaning given by section 251 of the Insolvency Act 1986 (c. 45),

“the Appeal Officer” has the meaning given by section 28(1),

“charity” (except in the phrase “Scottish charity”) has the same meaning as in the Charities Act 1993 (c. 10) (see section 96 of that Act),

“community interest object” is to be construed in accordance with section 35(3),

“the community interest test” is to be construed in accordance with section 35(2),

“enactment” includes an Act of the Scottish Parliament,

“excluded company” is to be construed in accordance with section 35(6),

“the Official Property Holder” has the meaning given by section 29(1),

“the Regulator” has the meaning given by section 27(1), and

“Scottish charity” has the meaning given by section 1(7) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40).

- (2) Any expression used in this Part and in the Companies Act 1985 (c. 6) has the same meaning in this Part as in that Act.