

*Status: Point in time view as at 01/07/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Companies (Audit, Investigations and Community Enterprise) Act 2004, SCHEDULE 7. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 7

Section 42

#### COMMUNITY INTEREST COMPANIES: INVESTIGATIONS

##### *Power to require documents and information*

- 1 (1) The investigator of a community interest company may require the company or any other person—
- (a) to produce such documents (or documents of such description) as the investigator may specify;
  - (b) to provide such information (or information of such description) as the investigator may specify.
- (2) A person on whom a requirement is imposed under sub-paragraph (1) may require the investigator to produce evidence of his authority.
- (3) A requirement under sub-paragraph (1) must be complied with at such time and place as may be specified by the investigator.
- (4) The production of a document in pursuance of this paragraph does not affect any lien which a person has on the document.
- (5) The investigator may take copies of or extracts from a document produced in pursuance of this paragraph.
- (6) In relation to information recorded otherwise than in legible form, the power to require production of it includes power to require the production of a copy of it in legible form or in a form from which it can readily be produced in visible and legible form.
- (7) In this Schedule—
- (a) “the investigator of a community interest company” means a person investigating the company’s affairs under section 42, and
  - (b) “document” includes information recorded in any form.

#### **Commencement Information**

**II** Sch. 7 para. 1 in force at 1.7.2005 by S.I. 2004/3322, art. 2(3), Sch. 3

##### *Privileged information*

- 2 (1) Nothing in paragraph 1 requires a person to produce a document or provide information in respect of which a claim could be maintained—
- (a) in an action in the High Court, to legal professional privilege, or
  - (b) in an action in the Court of Session, to confidentiality of communications,

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but a person who is a lawyer may be required to provide the name and address of his client.

- (2) Nothing in paragraph 1 requires a person carrying on the business of banking to produce a document, or provide information, relating to the affairs of a customer unless a requirement to produce the document, or provide the information, has been imposed on the customer under that paragraph.

#### **Commencement Information**

**I2** Sch. 7 para. 2 in force at 1.7.2005 by S.I. 2004/3322, art. 2(3), Sch. 3

#### *Use of information as evidence*

- 3 (1) A statement made by a person in compliance with a requirement imposed under paragraph 1 may be used in evidence against the person.
- (2) But in criminal proceedings—
- (a) no evidence relating to the statement may be adduced by or on behalf of the prosecution, and
  - (b) no question relating to it may be asked by or on behalf of the prosecution, unless evidence relating to it is adduced or a question relating to it is asked in the proceedings by or on behalf of that person.
- (3) However, sub-paragraph (2) does not apply to proceedings in which a person is charged with an offence under—
- (a) paragraph 5,
  - (b) section 5 of the Perjury Act 1911 (c. 6) (false statement made otherwise than on oath), or
  - (c) section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39) (false statement made otherwise than on oath).

#### **Commencement Information**

**I3** Sch. 7 para. 3 in force at 1.7.2005 by S.I. 2004/3322, art. 2(3), Sch. 3

#### *Failure to comply with requirement*

- 4 (1) This paragraph applies if a person fails to comply with a requirement imposed under paragraph 1.
- (2) The investigator may certify that fact in writing to the court.
- (3) If, after hearing—
- (a) any witnesses who may be produced against or on behalf of the alleged offender, and
  - (b) any statement which may be offered in defence,
- the court is satisfied that the offender failed without reasonable excuse to comply with the requirement, it may deal with him as if he had been guilty of contempt of the court.

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**I4** Sch. 7 para. 4 in force at 1.7.2005 by S.I. 2004/3322, art. 2(3), Sch. 3

*False information*

- 5 (1) A person commits an offence if in purported compliance with a requirement under paragraph 1 to provide information, the person—
- (a) provides information which the person knows to be false in a material particular, or
  - (b) recklessly provides information which is false in a material particular,
- but a prosecution may be instituted in England and Wales only with the consent of the Director of Public Prosecutions.
- (2) A person guilty of an offence under sub-paragraph (1) is liable—
- (a) on conviction on indictment to imprisonment for a term not exceeding two years or a fine or to both,
  - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding twelve months or a fine of an amount not exceeding the statutory maximum or to both, and
  - (c) on summary conviction in Scotland, to imprisonment for a term not exceeding six months or a fine of an amount not exceeding the statutory maximum or to both.
- (3) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 (c. 44) comes into force, sub-paragraph (2)(b) has effect as if for “twelve” there were substituted “ six ”.

**Commencement Information**

**I5** Sch. 7 para. 5 in force at 1.7.2005 by S.I. 2004/3322, art. 2(3), Sch. 3

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