



# Companies Act 2006

## 2006 CHAPTER 46

### PART 42

#### STATUTORY AUDITORS

### CHAPTER 3

#### AUDITORS GENERAL

##### *Eligibility for appointment*

#### **1226 Auditors General: eligibility for appointment as a statutory auditor**

- (1) In this Part “Auditor General” means—
  - (a) the Comptroller and Auditor General,
  - (b) the Auditor General for Scotland,
  - (c) the Auditor General for Wales, or
  - (d) the Comptroller and Auditor General for Northern Ireland.
- (2) An Auditor General is eligible for appointment as a statutory auditor.
- (3) Subsection (2) is subject to any suspension notice having effect under section 1234 (notices suspending eligibility for appointment as a statutory auditor).

##### *Conduct of audits*

#### **1227 Individuals responsible for audit work on behalf of Auditors General**

An Auditor General must secure that each individual responsible for statutory audit work on behalf of that Auditor General is eligible for appointment as a statutory auditor by virtue of Chapter 2.

*Status: Point in time view as at 01/08/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Companies Act 2006, Chapter 3. (See end of Document for details)*

### *The Independent Supervisor*

#### **1228 Appointment of the Independent Supervisor**

- (1) The Secretary of State must appoint a body (“the Independent Supervisor”) to discharge the function mentioned in section 1229(1) (“the supervision function”).
- (2) An appointment under this section must be made by order.
- (3) The order has the effect of making the body appointed under subsection (1) designated under section 5 of the Freedom of Information Act 2000 (c. 36) (further powers to designate public authorities).
- (4) A body may be appointed under this section only if it is a body corporate or an unincorporated association which appears to the Secretary of State—
  - (a) to be willing and able to discharge the supervision function, and
  - (b) to have arrangements in place relating to the discharge of that function which are such as to be likely to ensure that the conditions in subsection (5) are met.
- (5) The conditions are—
  - (a) that the supervision function will be exercised effectively, and
  - (b) where the order is to contain any requirements or other provisions specified under subsection (6), that that function will be exercised in accordance with any such requirements or provisions.
- (6) An order under this section may contain such requirements or other provisions relating to the exercise of the supervision function by the Independent Supervisor as appear to the Secretary of State to be appropriate.
- (7) An order under this section is subject to negative resolution procedure.

#### **Commencement Information**

- II** [S. 1228](#) wholly in force at 6.4.2008; [s. 1228](#) not in force at Royal Assent, see [s. 1300](#); [s. 1228](#) in force for specified purposes at 20.1.2007 by [S.I. 2006/3428](#), [art. 3\(3\)](#) (subject to [art. 5](#), [Sch. 1](#) and with [arts. 6, 8](#), [Sch. 5](#)); [s. 1228](#) in force at 6.4.2008 by [S.I. 2007/3495](#), [art. 3\(1\)\(u\)](#) (with savings in [arts. 7, 12](#), [Sch. 4 paras. 37-42](#))

### *Supervision of Auditors General*

#### **1229 Supervision of Auditors General by the Independent Supervisor**

- (1) The Independent Supervisor must supervise the performance by each Auditor General of his functions as a statutory auditor.
- [<sup>F1</sup>(2) The Independent Supervisor must discharge that duty by—
  - (a) establishing supervision arrangements itself, or
  - (b) entering into supervision arrangements with one or more bodies.
- (2A) If the Independent Supervisor enters into supervision arrangements with one or more bodies, it must oversee the effective operation of those supervision arrangements.]

*Status: Point in time view as at 01/08/2011.*

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- (3) For this purpose “supervision arrangements” are arrangements [<sup>F2</sup>established by the Independent Supervisor or] entered into by the Independent Supervisor with a body, for the purposes of this section, in accordance with which [<sup>F3</sup>the Independent Supervisor or] the body does <sup>F4</sup>. . . the following—
- (a) determines standards relating to professional integrity and independence which must be applied by an Auditor General in statutory audit work;
  - (b) determines technical standards which must be applied by an Auditor General in statutory audit work and the manner in which those standards are to be applied in practice;
  - (c) monitors the performance of statutory audits carried out by an Auditor General;
  - (d) investigates any matter arising from the performance by an Auditor General of a statutory audit;
  - (e) holds disciplinary hearings in respect of an Auditor General which appear to be desirable following the conclusion of such investigations;
  - (f) decides whether (and, if so, what) disciplinary action should be taken against an Auditor General to whom such a hearing related.

[<sup>F5</sup>(3A) The requirements of paragraphs 9 to 10A and 12 to 15 of Schedule 10 (requirements for recognition of a supervisory body) apply in relation to supervision arrangements as they apply in relation to the rules, practices and arrangements of supervisory bodies.]

- (4) The Independent Supervisor may enter into supervision arrangements with a body despite any relationship that may exist between the Independent Supervisor and that body.
- (5) The Independent Supervisor must notify each Auditor General in writing of any supervision arrangements that it [<sup>F6</sup>establishes or] enters into under this section.

[<sup>F7</sup>(5A) The Independent Supervisor must, at least once in every calendar year, deliver to the Secretary of State a summary of the results of any inspections conducted for the purposes of subsection (3)(c).]

- (6) Supervision arrangements within subsection (3)(f) may, in particular, provide for the payment by an Auditor General of a fine to any person.
- (7) Any fine received by the Independent Supervisor under supervision arrangements is to be paid into the Consolidated Fund.

#### Textual Amendments

- F1** S. 1229(2)(2A) substituted for s. 1229(2) (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 9\(2\)](#)
- F2** Words in s. 1229(3) inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 9\(3\)\(a\)](#)
- F3** Words in s. 1229(3) inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 9\(3\)\(b\)](#)
- F4** Words in s. 1229(3) omitted (6.4.2008) by virtue of [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 9\(3\)\(c\)](#)
- F5** S. 1229(3A) inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 9\(4\)](#)
- F6** Words in s. 1229(5) inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 9\(5\)](#)

*Status: Point in time view as at 01/08/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Companies Act 2006, Chapter 3. (See end of Document for details)*

**F7** S. 1229(5A) inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 9\(6\)](#)

### 1230 Duties of Auditors General in relation to supervision arrangements

(1) Each Auditor General must—

- (a) comply with any standards of the kind mentioned in subsection (3)(a) or (b) of section 1229 determined under the supervision arrangements,
- (b) take such steps as may be reasonably required of that Auditor General to enable his performance of statutory audits to be monitored by means of inspections carried out under the supervision arrangements, and
- (c) comply with any decision of the kind mentioned in subsection (3)(f) of that section made under the supervision arrangements.

[<sup>F8</sup>(2) Each Auditor General must—

- (a) if the Independent Supervisor has established supervision arrangements, pay to the Independent Supervisor;
- (b) if the Independent Supervisor has entered into supervision arrangements with a body, pay to that body,

such proportion of the costs incurred by the Independent Supervisor or body for the purposes of the arrangements as the Independent Supervisor may notify to him in writing.]

(3) Expenditure under subsection (2) is—

- (a) in the case of expenditure of the Comptroller and Auditor General, to be regarded as expenditure of the National Audit Office for the purposes of section 4(1) of the National Audit Act 1983 (c. 44);
- (b) in the case of expenditure of the Comptroller and Auditor General for Northern Ireland, to be regarded as expenditure of the Northern Ireland Audit Office for the purposes of Article 6(1) of the Audit (Northern Ireland) Order 1987 (S.I. 1987/460 (N.I. 5)).

(4) In this section “the supervision arrangements” means the arrangements [<sup>F9</sup>established or] entered into under section 1229.

#### Textual Amendments

- F8** S. 1230(2) substituted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 10\(2\)](#)
- F9** Words in s. 1230(4) inserted (6.4.2008) by [The Statutory Auditors and Third Country Auditors Regulations 2007 \(S.I. 2007/3494\)](#), [reg. 10\(3\)](#)

#### *Reporting requirement*

### 1231 Reports by the Independent Supervisor

(1) The Independent Supervisor must, at least once in each calendar year, prepare a report on the discharge of its functions.

*Status: Point in time view as at 01/08/2011.*

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- (2) The Independent Supervisor must give a copy of each report prepared under subsection (1) to—
- (a) the Secretary of State;
  - (b) the First Minister in Scotland;
  - (c) the First Minister and the deputy First Minister in Northern Ireland;
  - [<sup>F10</sup>(d) The First Minister for Wales.]
- (3) The Secretary of State must lay before each House of Parliament a copy of each report received by him under subsection (2)(a).
- [<sup>F11</sup>(3A) The First Minister for Wales must lay before the National Assembly for Wales a copy of each report received by him under subsection (2)(d).]
- (4) In relation to a calendar year during which an appointment of a body as the Independent Supervisor is made or revoked by an order under section 1228, this section applies with such modifications as may be specified in the order.

#### Textual Amendments

- F10** S. 1231(2)(d) substituted (6.11.2009) by [The Government of Wales Act 2006 \(Consequential Modifications, Transitional Provisions and Saving\) Order 2009 \(S.I. 2009/2958\)](#), [art. 12\(2\)](#)
- F11** S. 1231(3A) inserted (6.11.2009) by [The Government of Wales Act 2006 \(Consequential Modifications, Transitional Provisions and Saving\) Order 2009 \(S.I. 2009/2958\)](#), [art. 12\(3\)](#) (with [art. 12\(4\)](#))

#### Commencement Information

- I2** S. 1231 wholly in force at 6.4.2008; s. 1231 not in force at Royal Assent, see s. 1300; s. 1231 in force for specified purposes at 20.1.2007 by [S.I. 2006/3428](#), [art. 3\(3\)](#) (subject to [art. 5](#), [Sch. 1](#) and with [arts. 6, 8](#), [Sch. 5](#)); s. 1231 in force at 6.4.2008 by [S.I. 2007/3495](#), [art. 3\(1\)\(u\)](#) (with savings in [arts. 7, 12](#), [Sch. 4 paras. 37-42](#))

### Information

#### 1232 Matters to be notified to the Independent Supervisor

- (1) The Independent Supervisor may require an Auditor General—
- (a) to notify the Independent Supervisor immediately of the occurrence of such events as it may specify in writing and to give it such information in respect of those events as is so specified;
  - (b) to give the Independent Supervisor, at such times or in respect of such periods as it may specify in writing, such information as is so specified.
- (2) The notices and information required to be given must be such as the Independent Supervisor may reasonably require for the exercise of the functions conferred on it by or by virtue of this Part.
- (3) The Independent Supervisor may require information given under this section to be given in a specified form or verified in a specified manner.
- (4) Any notice or information required to be given under this section must be given in writing unless the Independent Supervisor specifies or approves some other manner.

*Status: Point in time view as at 01/08/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Companies Act 2006, Chapter 3. (See end of Document for details)*

### **1233 The Independent Supervisor's power to call for information**

- (1) The Independent Supervisor may by notice in writing require an Auditor General to give it such information as it may reasonably require for the exercise of the functions conferred on it by or by virtue of this Part.
- (2) The Independent Supervisor may require that any information which it requires under this section is to be given within such reasonable time and verified in such manner as it may specify.

#### *Enforcement*

### **1234 Suspension notices**

- (1) The Independent Supervisor may issue—
  - (a) a notice (a “suspension notice”) suspending an Auditor General's eligibility for appointment as a statutory auditor in relation to all persons, or any specified person or persons, indefinitely or until a date specified in the notice;
  - (b) a notice amending or revoking a suspension notice previously issued to an Auditor General.
- (2) In determining whether it is appropriate to issue a notice under subsection (1), the Independent Supervisor must have regard to—
  - (a) the Auditor General's performance of the obligations imposed on him by or by virtue of this Part, and
  - (b) the Auditor General's performance of his functions as a statutory auditor.
- (3) A notice under subsection (1) must—
  - (a) be in writing, and
  - (b) state the date on which it takes effect (which must be after the period of three months beginning with the date on which it is issued).
- (4) Before issuing a notice under subsection (1), the Independent Supervisor must—
  - (a) give written notice of its intention to do so to the Auditor General, and
  - (b) publish the notice mentioned in paragraph (a) in such manner as it thinks appropriate for bringing it to the attention of any other persons who are likely to be affected.
- (5) A notice under subsection (4) must—
  - (a) state the reasons for which the Independent Supervisor proposes to act, and
  - (b) give particulars of the rights conferred by subsection (6).
- (6) A person within subsection (7) may, within the period of three months beginning with the date of service or publication of the notice under subsection (4) or such longer period as the Independent Supervisor may allow, make written representations to the Independent Supervisor and, if desired, oral representations to a person appointed for that purpose by the Independent Supervisor.
- (7) The persons within this subsection are—
  - (a) the Auditor General, and
  - (b) any other person who appears to the Independent Supervisor to be affected.

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- (8) The Independent Supervisor must have regard to any representations made in accordance with subsection (6) in determining—
  - (a) whether to issue a notice under subsection (1), and
  - (b) the terms of any such notice.
- (9) If in any case the Independent Supervisor considers it appropriate to do so in the public interest it may issue a notice under subsection (1), without regard to the restriction in subsection (3)(b), even if—
  - (a) no notice has been given or published under subsection (4), or
  - (b) the period of time for making representations in pursuance of such a notice has not expired.
- (10) On issuing a notice under subsection (1), the Independent Supervisor must—
  - (a) give a copy of the notice to the Auditor General, and
  - (b) publish the notice in such manner as it thinks appropriate for bringing it to the attention of persons likely to be affected.
- (11) In this section “specified” means specified in, or of a description specified in, the suspension notice in question.

### **1235 Effect of suspension notices**

- (1) An Auditor General must not act as a statutory auditor at any time when a suspension notice issued to him in respect of the audited person has effect.
- (2) If at any time during an Auditor General's term of office as a statutory auditor a suspension notice issued to him in respect of the audited person takes effect, he must immediately—
  - (a) resign his office (with immediate effect), and
  - (b) give notice in writing to the audited person that he has resigned by reason of his becoming ineligible for appointment.
- (3) A suspension notice does not make an Auditor General ineligible for appointment as a statutory auditor for the purposes of section 1213 (effect of ineligibility: criminal offences).

### **1236 Compliance orders**

- (1) If at any time it appears to the Independent Supervisor that an Auditor General has failed to comply with an obligation imposed on him by or by virtue of this Part, the Independent Supervisor may make an application to the court under this section.
- (2) If on an application under this section the court decides that the Auditor General has failed to comply with the obligation in question, it may order the Auditor General to take such steps as the court directs for securing that the obligation is complied with.
- (3) In this section “the court” means the High Court or, in Scotland, the Court of Session.

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*Status: Point in time view as at 01/08/2011.*

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## *Proceedings*

### **1237 Proceedings involving the Independent Supervisor**

- (1) If the Independent Supervisor is an unincorporated association, any relevant proceedings may be brought by or against it in the name of any body corporate whose constitution provides for the establishment of the body.
- (2) For this purpose “relevant proceedings” means proceedings brought in or in connection with the exercise of any function by the body as the Independent Supervisor.
- (3) Where an appointment under section 1228 is revoked, the revoking order may make such provision as the Secretary of State thinks fit with respect to pending proceedings.

#### **Commencement Information**

- I3** [S. 1237](#) wholly in force at 6.4.2008; [s. 1237](#) not in force at Royal Assent, see [s. 1300](#); [s. 1237](#) in force for specified purposes at 20.1.2007 by [S.I. 2006/3428](#), [art. 3\(3\)](#) (subject to [art. 5](#), [Sch. 1](#) and with [arts. 6, 8](#), [Sch. 5](#)); [s. 1237](#) in force at 6.4.2008 by [S.I. 2007/3495](#), [art. 3\(1\)\(u\)](#) (with savings in [arts. 7, 12](#), [Sch. 4 paras. 37-42](#))

## *Grants*

### **1238 Grants to the Independent Supervisor**

In section 16 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27) (grants to bodies concerned with accounting standards etc), after subsection (2)(k) insert—

- “(ka) exercising functions of the Independent Supervisor appointed under Chapter 3 of Part 42 of the Companies Act 2006;”.



**Status:**

Point in time view as at 01/08/2011.

**Changes to legislation:**

There are currently no known outstanding effects for the Companies Act 2006, Chapter 3.