

## SCHEDULE 3

Article 9

### TRANSITIONAL PROVISIONS AND SAVINGS

#### **Resolutions and agreements affecting a company's constitution (ss.29 and 30)**

1.—(1) Sections 29 and 30 of the Companies Act 2006 (resolutions and agreements affecting a company's constitution) apply to resolutions passed and agreements made on or after 1st October 2007.

(2) The provisions of section 380(1) and (5) of the 1985 Act or Article 388(1) and (5) of the 1986 Order continue to apply in relation to resolutions passed and agreements made, but not forwarded to the registrar, before that date.

This does not affect the operation of section 1297 of the Companies Act 2006 (continuity of the law) in relation to things done under those provisions.

#### **Inspection of register of members (ss.116 to 119)**

2.—(1) Sections 116 to 119 of the Companies Act 2006 (inspection of register of members) apply where—

- (a) the request is made on or after 1st October 2007, and
- (b) the company is not obliged to deliver an annual return under section 363 of the 1985 Act or Article 371 of the 1986 Order made up to a date before 1st October 2008.

(2) Sections 356 and 357 of the 1985 Act or Articles 364 and 365 of the 1986 Order continue to apply to requests made before 1st October 2007 or after that date to a company that is so obliged.

#### **Exercise of members' rights (ss.145 to 153)**

3.—(1) Section 145 of the Companies Act 2006 (effect of provisions of articles as to enjoyment or exercise of members' rights) applies in relation to things required or authorised to be done as mentioned in subsection (2) of that section on or after 1st October 2007.

(2) Nominations under section 146 of that Act (traded companies: nomination of persons to enjoy information rights) may be made at any time on or after 1st October 2007.

A company is not required to act on a nomination before 1st January 2008; but if it does so, sections 147 to 150 apply.

(3) Section 152 of that Act (exercise of rights where shares held on behalf of others: exercise in different ways) applies in relation to the exercise of rights on or after 1st October 2007.

(4) A request may be made under section 153 of that Act (exercise of rights where shares held on behalf of others: members' requests) at any time on or after 1st October 2007.

#### **Validity of acts of directors (s.161)**

4.—(1) Section 161 of the Companies Act 2006 (validity of acts of directors) applies to acts done on or after 1st October 2007.

(2) Section 285 of the 1985 Act (validity of acts of director or manager) or Article 293 of the 1986 Order (validity of acts of director) continues to apply to acts done before that date.

### **Removal of directors (ss.168 and 169)**

5.—(1) Section 169(5) of the Companies Act 2006 (circumstances in which representations need not be sent out or read out at the meeting) applies where the representations are received by the company on or after 1st October 2007.

(2) Section 304(4) of the 1985 Act or Article 312(4) of the 1986 Order continues to apply where the representations are received by the company before that date.

### **Transactions requiring members' approval: directors' long-term service contracts (ss.188 and 189)**

6.—(1) Sections 188 and 189 of the Companies Act 2006 (directors' long-term service contracts: requirement of members' approval) apply to agreements made on or after 1st October 2007.

(2) A resolution passed before that date approving the provision made by such an agreement is effective for the purposes of those sections if it complies with the requirements of those sections.

(3) Section 188(4) (addition of unexpired period of earlier contract in determining guaranteed period under new contract) applies whether the original contract (within the meaning of that provision) was entered into before or after that date.

(4) Section 319 of the 1985 Act or Article 327 of the 1986 Order continues to apply to agreements made before that date.

### **Transactions requiring members' approval: substantial property transactions (ss.190 to 196)**

7.—(1) Sections 190 to 196 of the Companies Act 2006 (substantial property transactions: requirement of members' approval) apply to arrangements or transactions entered into on or after 1st October 2007.

(2) A resolution passed before that date approving an arrangement or transaction is effective for the purposes of those sections if it complies with the requirements of those sections.

(3) Sections 320 to 322 of the 1985 Act or Articles 328 to 330 of the 1986 Order continue to apply in relation to arrangements or transactions entered into before that date.

### **Transactions requiring members' approval: loans, quasi-loans and credit transactions (ss.197 to 214)**

8.—(1) Sections 197 to 214 of the Companies Act 2006 (loans, quasi-loans and credit transactions: requirement of members' approval) apply to transactions or arrangements entered into on or after 1st October 2007.

(2) A resolution passed before that date approving a transaction or arrangement is effective for the purposes of those sections if it complies with the requirements of those sections.

(3) Sections 330 to 342 of the 1985 Act or Articles 338 to 350 of the 1986 Order continue to apply in relation to a contravention occurring before that date.

9. Approval is not required under section 197, 198, 200 or 201 of the Companies Act 2006 (requirement of members' approval for loans etc) for anything done by a company in pursuance of an agreement entered into before 1st October 2007 that, by virtue of section 337A of the 1985 Act or Article 345A of the 1986 Order (funding of director's expenditure on defending proceedings), would not have required approval if done before that date.

10.—(1) This paragraph applies where before 1st October 2007 a company has done anything—

- (a) pursuant to section 337(1) or (2) of the 1985 Act or Article 345(1) or (2) of the 1986 Order (funding of director's expenditure on duty to company), and

(b) on the condition mentioned in section 337(3)(b) of that Act or Article 345(3)(b) of that Order (condition requiring repayment of loan etc if approval of company in general meeting not given within six months).

(2) If that condition has not been satisfied before that date, it continues to apply notwithstanding the repeal of that section or that Article, but subject as follows.

(3) In the case of a private company that by reason of the repeal of section 366 of the 1985 Act or Article 374 of the 1986 Order with effect from that date ceases to be required to hold an annual general meeting, the condition shall be read as if it provided—

- (a) that the approval of the company is required on or before the last date on which the company would have been required to hold an annual general meeting but for the repeal, and
- (b) that the loan is to be repaid within six months from that date if such approval is not forthcoming.

**11.—**(1) This paragraph applies where before 1st October 2007 a company has done anything—

- (a) pursuant to section 337A(1) or (3) of the 1985 Act or Article 345A(1) or (3) of the 1986 Order (funding of director's expenditure on defending proceedings), and
- (b) on the terms mentioned in section 337A(4) of that Act or Article 345A(4) of that Order (terms requiring repayment of loan etc if defendant convicted, has judgment given against him or refused relief).

(2) If immediately before that date—

- (a) it is not yet known whether repayment will be required, or
- (b) repayment is required but had not been made,

those terms continue to apply notwithstanding the repeal of that section or that Article.

#### **Transactions requiring members' approval: payments for loss of office (ss.215 to 222)**

**12.—**(1) Sections 215 to 222 of the Companies Act 2006 (payments for loss of office: requirement of members' approval) apply in relation to any such loss of office or employment as is mentioned in section 215(1)(a) or (b), or any such retirement as is mentioned in section 215(1)(c) or (d), occurring on or after 1st October 2007.

(2) A resolution passed before that date approving a payment is effective for the purposes of those sections if it complies with the requirements of those sections.

(3) Sections 312 to 316 of the 1985 Act or Articles 320 to 324 of the 1986 Order continue to apply in relation to loss of office or retirement within the meaning of those provisions occurring before that date.

(4) For the purposes of this paragraph loss of office or retirement is regarded as occurring—

- (a) in the case of a directorship, when the person ceases to be a director;
- (b) in the case of any other office, when the person ceases to hold that office;
- (c) in the case of employment, when the employment comes to an end.

#### **Directors' service contracts (ss.227 to 230)**

**13.—**(1) Sections 228 to 230 of the Companies Act 2006 (directors' service contracts) apply to—

- (a) contracts within section 227(1) of that Act entered into on or after 1st October 2007,
- (b) appointments within section 227(2) of that Act made on or after that date, and

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*The Companies Act 2006 (Commencement No. 4 and Commencement No. 3 (Amendment)) Order 2007 No. 2607*

(c) contracts to which section 318(1) of the 1985 Act or Article 326(1) of the 1986 Order applied immediately before that date.

(2) Until regulations under section 1136 of the Companies Act 2006 are made specifying a place for the purposes of section 228(2)(b), the copies and memoranda referred to in section 228 may be kept by a company—

- (a) at any place where its register of members is kept, or
- (b) at its principal place of business,

provided that place is situated in the part of the United Kingdom in which the company is registered.

(3) Until section 1068(1) of the Companies Act 2006 comes into force the notice referred to in section 228(4) must be given on the form prescribed for the purposes of section 318(4) of the 1985 Act or Article 326(4) of the 1986 Order.

(4) The provisions of section 318 of the 1985 Act or Article 326 of the 1986 Order continue to apply in relation to—

- (a) any default before 1st October 2007 in complying with section 318(1) or (5) or Article 326(1) or (5);
- (b) any request for inspection under section 318(7) or Article 326(7) made before that date;
- (c) any duty to give notice under section 318(4) or Article 326(4) arising before that date.

#### **Contracts with sole member who is a director (s.231)**

**14.—**(1) Section 231 of the Companies Act 2006 (contracts with sole member who is a director) applies to contracts entered into on or after 1st October 2007.

(2) Section 322B of the 1985 Act or Article 330B of the 1986 Order continues to apply to contracts entered into before that date.

#### **Directors' liabilities (ss.232 to 239)**

**15.—**(1) Sections 232 to 236 of the Companies Act 2006 (restrictions on provision protecting directors from liability) apply to any provision made on or after 1st October 2007.

(2) Sections 309A, 309B and 309C(1) to (3) and (6) of the 1985 Act or Article 318 of the 1986 Order (so far as it relates to directors) continue to apply in relation to any provision to which they applied immediately before that date.

**16.—**(1) Sections 237 and 238 of the Companies Act 2006 (copies of qualifying indemnity provision to be available for inspection etc) apply to—

- (a) qualifying indemnity provision within the meaning of section 237 made on or after 1st October 2007, and
- (b) qualifying third party indemnity provision within the meaning of section 309B(1) of the 1985 Act to which section 309C(4) and (5) of that Act applied immediately before that date.

(2) Until regulations under section 1136 of the Companies Act 2006 are made specifying a place for the purposes of section 237(3)(b), the copies and memoranda referred to in section 237 may be kept by a company—

- (a) at any place where its register of members is kept, or
- (b) at its principal place of business,

provided that place is situated in the part of the United Kingdom in which the company is registered.

(3) Until section 1068(1) of the Companies Act 2006 comes into force the notice referred to in section 237(5) must be given on the form prescribed for the purposes of section 318(4) of the 1985 Act or Article 326(4) of the 1986 Order.

(4) The provisions of section 318 of the 1985 Act, as applied by section 309C(4) and (5), continue to apply in relation to—

- (a) any default before 1st October 2007 in complying with section 318(1) or (5), as so applied;
- (b) any request for inspection under section 318(7), as so applied, made before that date;
- (c) any duty to give notice under section 318(4), as so applied, arising before that date.

**17.—**(1) Section 239 of the Companies Act 2006 (ratification of acts of directors giving rise to liability) applies to conduct by a director on or after 1st October 2007.

(2) Conduct by a director before that date is subject to the law relating to ratification that applied immediately before that date.

#### **Power to make provision for employees on cessation or transfer of business (s.247)**

**18.—**(1) Section 247 of the Companies Act 2006 (power to make provision for employees on cessation or transfer of business) applies to provision made on or after 1st October 2007 (subject to sub-paragraph (2)(b)).

(2) Section 719 of the 1985 Act or Article 668 of the 1986 Order continues to apply—

- (a) to provision made before that date, and
- (b) to anything sanctioned in accordance with subsection (3) of that section or paragraph (3) of that Article before that date.

#### **Records of meetings of directors (ss.248 and 249)**

**19.—**(1) Sections 248 and 249 of the Companies Act 2006 (records of meetings of directors) apply to meetings held on or after 1st October 2007.

(2) Section 382 of the 1985 Act or Article 390 of the 1986 Order continues to apply to meetings of directors held before that date.

#### **Derivative claims and proceedings by members (ss.260 to 269)**

**20.—**(1) On and after 1st October 2007 sections 260 to 264 of the Companies Act 2006 (derivative claims in England and Wales or Northern Ireland) apply to all derivative claims, subject to the following provisions.

(2) Those sections do not apply, and the law in force immediately before 1st October 2007 continues to apply, where the claimant (in Northern Ireland, the plaintiff) has applied for permission (in Northern Ireland, leave) to continue the claim before that date.

(3) If, or to the extent that, the claim arises from acts or omissions that occurred before 1st October 2007, the court must exercise its powers under those sections so as to secure that the claim is allowed to proceed as a derivative claim only if, or to the extent that, it would have been allowed to proceed as a derivative claim under the law in force immediately before that date.

**21.—**(1) This paragraph applies where an application is made under section 266 or 267 (derivative proceedings in Scotland).

(2) If the cause of action arises, wholly or to any extent, from an act or omission that occurred before 1st October 2007, the court shall exercise its powers under those sections so as to secure that the proceedings in respect of that act or omission are allowed to proceed as derivative proceedings

only to the extent that they could have been pursued by the applicant under the law in force immediately before that date.

### **General provisions about resolutions (ss.281 to 287)**

**22.**—(1) Sections 281 to 287 of the Companies Act 2006 (general provisions about resolutions), apply—

- (a) to written resolutions to which sections 288 to 300 of that Act apply (see paragraph 24);
- (b) to resolutions (other than written resolutions)—
  - (i) of which notice is given on or after 1st October 2007, or
  - (ii) that are proposed at a meeting of which notice is given on or after 1st October 2007, other than a meeting convened in pursuance of a requisition made under section 368 or 376 of the 1985 Act or Article 376 or 384 of the 1986 Order made before that date.

(2) The provisions of the 1985 Act or 1986 Order continue to apply to resolutions (other than written resolutions)—

- (a) of which notice is given before 1st October 2007, or
- (b) that are proposed at a meeting—
  - (i) of which notice was given before 1st October 2007, or
  - (ii) that is convened in pursuance of a requisition under section 368 or 376 of the 1985 Act or Article 376 or 384 of the 1986 Order made before that date.

(3) The provisions referred to in sub-paragraph (2) include—

- section 370(6) of the 1985 Act or Article 378(6) of the 1986 Order (voting entitlement of members); and
- section 378 of the 1985 Act or Article 386 of the 1986 Order (extraordinary and special resolutions).

(4) Where notice of a meeting is given over more than one day, it is treated for the purposes of this paragraph as given on the first of those days.

(5) Where copies of a requisition are deposited on more than one day, the references in this paragraph to the day on which the requisition is made shall be read as references to the first day on which the copies deposited are sufficient to require the company to act.

**23.** Any reference to an extraordinary resolution in a provision—

- (a) of a company's memorandum or articles, or
- (b) of a contract,

continues to have effect and shall continue to be construed in accordance with section 378 of the 1985 Act or Article 386 of the 1986 Order as if that section or Article had not been repealed.

### **Written resolutions (ss.288 to 300)**

**24.**—(1) Sections 288 to 300 of the Companies Act 2006 (written resolutions) apply to resolutions for which the circulation date (see section 290) is on or after 1st October 2007.

(2) Section 381A to 381C of, and Schedule 15A to, the 1985 Act or Article 389A to 389C of, and Schedule 15A to, the 1986 Order continue to apply to resolutions sent or circulated to any relevant member before that date.

A "relevant member" means one whose signature is required by section 381A(1) or Article 389A(1).

### **Members' power to require directors to call meeting (ss.303 to 305)**

**25.**—(1) Sections 303 to 305 of the Companies Act 2006 (meetings required by members) apply to requests made on or after 1st October 2007.

(2) Section 368 of the 1985 Act or Article 376 of the 1986 Order continues to apply to requisitions made before that date.

(3) Where requests are made or copies of a requisition are deposited on more than one day, the references in this paragraph to the day on which the request or requisition is made shall be read as references to the first day on which the requests made or copies deposited are sufficient to require the company to act.

### **Notice of meetings (ss.307, 310 and 311)**

**26.**—(1) Sections 307, 310 and 311 of the Companies Act 2006 (notice of meetings) apply in relation to meetings of which notice is given on or after 1st October 2007.

(2) The provisions of the 1985 Act or the 1986 Order continue to apply in relation to a meeting of which notice was given before that date.

(3) The provisions referred to in sub-paragraph (2) include sections 369 and 370(2) of the 1985 Act or Articles 377 and 378(2) of the 1986 Order.

(4) Where notice of a meeting is given over more than one day, it is treated for the purposes of this paragraph as given on the first of those days.

### **Special notice (s.312)**

**27.**—(1) Section 312 of the Companies Act 2006 (special notice) applies in relation to resolutions for which special notice is required where notice of the intention to move the resolution is given to the company on or after 1st October 2007.

(2) Section 379 of the 1985 Act or Article 387 of the 1986 Order continues to apply to resolutions for which special notice is required where notice of the intention to move the resolution is given to the company before that date.

### **Accidental failure to give notice of resolution or meeting (s.313)**

**28.**—(1) Section 313 of the Companies Act 2006 (accidental failure to give notice of resolution or meeting) applies to resolutions or meetings of which notice is given on or after 1st October 2007.

(2) The reference in sub-paragraph (1) to cases in which notice is given on or after 1st October 2007 includes cases in which notice would be regarded as so given if section 313 applied.

### **Circulation of members' statements (ss.314 to 317)**

**29.**—(1) Sections 314 to 317 of the Companies Act 2006 (circulation of members' statements) apply to requests made on or after 1st October 2007.

(2) Sections 376 and 377 of the 1985 Act or Articles 384 and 385 of the 1986 Order continue to apply in relation to requisitions made before that date.

(3) So long as such a requisition made to a private company under section 376(1)(b) or Article 384(1)(b) is not complied with, section 366 of the 1985 Act or Article 374 of the 1986 Order (duty to hold annual general meeting) continues to apply in relation to the company.

This does not apply if the company is not required to comply with the requisition (see section 377 of the 1985 Act or Article 385 of the 1986 Order).

(4) Where requests are made or copies of a requisition are deposited on more than one day, the references in this paragraph to the day on which the request or requisition is made shall be read as references to the first day on which the requests made or copies deposited are sufficient to require the company to act.

#### **Procedure at meetings and proxies (ss.318 to 331)**

**30.**—(1) Sections 318 to 323 of the Companies Act 2006 (procedure at meetings) and sections 324 to 331 (proxies) apply to meetings of which notice is given on or after 1st October 2007.

(2) The provisions of the 1985 Act or the 1986 Order continue to apply to meetings of which notice was given before that date.

(3) The provisions referred to in sub-paragraph (2) include sections 370, 370A, 372 to 375 and 378(4) of the 1985 Act or Articles 378, 378A, 380 to 383 and 386(4) of the 1986 Order.

(4) Where notice of a meeting is given over more than one day, it is treated for the purposes of this paragraph as given on the first of those days.

#### **Application of provisions to class meetings (ss.334 and 335)**

**31.**—(1) Sections 334 and 335 of the Companies Act 2006 (application of provisions of Chapter 3 to class meetings) apply to requests and meetings in relation to which the provisions applied by those sections have effect.

(2) Section 125(6) of the 1985 Act or Article 135(6) of the 1986 Order continues to apply to meetings of which notice is given before 1st October 2007.

(3) Where notice of a meeting is given over more than one day, it is treated for the purposes of sub-paragraph (2) as given on the first of those days.

#### **Annual general meetings (ss.336 to 340)**

**32.**—(1) The repeal of section 366 of the 1985 Act or Article 374 of the 1986 Order (duty to hold annual general meeting) does not affect any provision of a private company's memorandum or articles that expressly requires the company to hold an annual general meeting.

(2) Any such provision continues to have such effect as it had immediately before 1st October 2007.

(3) Provision specifying that one or more directors are to retire at an annual general meeting of the company is not provision expressly requiring the company to hold an annual general meeting.

**33.** The repeal of section 367 of the 1985 Act (default power of Secretary of State to call AGM) has effect in relation to a private company as from 1st October 2007, even if an application under that section has been made, or the Secretary of State has called or directed the calling of a meeting under that section, before that date.

**34.**—(1) The repeal of sections 376 and 377 of the 1985 Act or Articles 384 and 385 of the 1986 Order does not affect their application in relation to a requisition under section 376(1)(a) or Article 384(1)(a) made to a private company before 1st October 2007.

(2) So long as such a requisition has not been complied with, section 366 of the 1985 Act or Article 374 of the 1986 Order (duty to hold annual general meeting) continues to apply in relation to the company.

This does not apply if the company is not required to comply with the requisition (see section 377 of the 1985 Act or Article 385 of the 1986 Order).



(3) Where copies of the requisition are deposited on more than one day, the reference in subparagraph (1) to the day on which the request or requisition is made shall be read as a reference to the first day on which the copies deposited are sufficient to require the company to act.

**35.—**(1) In the case of an existing public company—

(a) section 366 of the 1985 Act or section 374 of the 1986 Order (duty to hold annual general meeting) continues to apply to determine the date by which the company must hold its first annual general meeting after 30th September 2007, and

(b) section 336 of the Companies Act 2006 (public companies: annual general meeting) applies in relation to subsequent annual general meetings.

(2) An “existing public company” means a company formed and registered before 1st October 2007 that is a public company immediately before that date.

**36.** The repeal of section 367 of the 1985 Act (default power of Secretary of State to call AGM) does not affect the operation of that section in relation to a public company where an application under that section was made before 1st October 2007.

**37.—**(1) Section 337 of the Companies Act 2006 (public companies: notice of AGM) applies to meetings of which notice is given on or after 1st October 2007.

(2) Section 369 of the 1985 Act or Article 377 of the 1986 Order continues to apply in relation to meetings of which notice is given before that date.

(3) Where notice of a meeting is given over more than one day, it is treated for the purposes of this paragraph as given on the first of those days.

**38.—**(1) Sections 338 to 340 of the Companies Act 2006 (public companies: members’ power to require circulation of resolutions for AGMs) apply to requests made on or after 1st October 2007.

(2) Sections 376 and 377 of the 1985 Act or Articles 384 and 385 of the 1986 Order continue to apply to requisitions made to a public company before that date.

(3) Where requests are made or copies of a requisition are deposited on more than one day, the references in this paragraph to the day on which the request or requisition is made shall be read as references to the first day on which the requests made or copies deposited are sufficient to require the company to act.

#### **Additional requirements for quoted companies (ss.342 to 354)**

**39.—**(1) Sections 342 to 354 of the Companies Act 2006 apply to polls taken at meetings of which notice was given on or after 1st October 2007.

(2) Where notice of a meeting is given over more than one day, it is treated for the purposes of this paragraph as given on the first of those days.

#### **Records of resolutions and meetings (ss.355 to 359)**

**40.—**(1) Sections 355 to 359 of the Companies Act 2006 (records of resolutions and meetings) apply to resolutions passed, meetings held or decisions taken on or after 1st October 2007.

(2) Sections 382, 382A, 382B and 383 of the 1985 Act or Articles 390, 390A, 390B and 391 of the 1986 Order continue to apply to resolutions passed, meetings held or decisions taken before that date.

### **Political donations and expenditure (ss.362 to 379)**

**41.**—(1) Sections 362 to 379 of the Companies Act 2006 (political donations and expenditure) apply to donations made or expenditure incurred on or after 1st October 2007.

Section 379(2) of that Act applies as to the time when a donation is regarded as made or expenditure as incurred, including where it is made or incurred in pursuance of a contract entered into before that date.

(2) Part 10A of the 1985 Act continues to apply to donations or expenditure in relation to which the relevant time, as defined in section 347A(10) of that Act, is before that date.

(3) The repeal of that Part does not affect paragraph 3(4) of Schedule 7 to the 1985 Act (matters to be dealt with in directors' report: expressions to have same meaning as in Part 10A).

**42.** An approval resolution passed in accordance with section 347C of the 1985 Act before 1st October 2007 is treated as complying with the requirements of section 367 of the Companies Act 2006 (form of authorising resolution) although it does not comply with the requirements of that section as to the heads under which donations and expenditure are to be stated.

### **Contents of directors' report: business review (s.417)**

**43.**—(1) Section 417 of the Companies Act 2006 (contents of directors' report: business review) applies to directors' reports for financial years beginning on or after 1st October 2007.

(2) Sections 234(1)(a), 234ZZB, 246(4)(a) and 246A(2A) of the 1985 Act or Articles 242(1), 242ZZB, 254(4)(a) and 254A(2A) of the 1986 Order continue to apply to directors' reports for financial years beginning before that date.

### **Appointment of auditors of private companies (ss.485 to 488)**

**44.**—(1) Sections 485 to 488 of the Companies Act 2006 (appointment of auditors of private companies) apply in relation to appointments for financial years beginning on or after 1st October 2007.

(2) Sections 384 to 388A of the 1985 Act or Articles 392 to 396A of the 1986 Order continue to apply in relation to appointments for financial years beginning before that date.

(3) Where—

(a) a private company has elected under section 386 of the 1985 Act or Article 394 of the 1986 Order to dispense with the annual appointment of auditors, and

(b) the election is in force immediately before 1st October 2007,

section 487(2)(a) of the Companies Act 2006 (no deemed reappointment of auditors appointed by directors) does not prevent the deemed reappointment under that subsection of auditors first appointed before 1st October 2007.

**45.**—(1) This paragraph applies where immediately before 1st October 2007 a resolution of a private company under section 390A of the 1985 Act or Article 398A of the 1986 Order (remuneration of auditors) was in force and was expressed (in whatever terms) to continue to have effect so long as a resolution under section 386 of that Act or Article 394 of that Order (election to dispense with annual appointment of auditors) continued in force.

(2) The repeal of section 386 of the 1985 Act or Article 394 of the 1986 Order does not affect the continued operation of the resolution, which shall continue to have effect until—

(a) it is revoked or superseded by a further resolution,

(b) the auditors to which it applies cease to hold office, or

(c) it otherwise ceases to have effect in accordance with its terms.

### **Fraudulent trading (s.993)**

**46.**—(1) Section 458 of the 1985 Act or Article 451 of the 1986 Order (offences of fraudulent trading) continues to apply to offences completed before 1st October 2007.

(2) Where, in the case of an offence—

- (a) a relevant event occurs before 1st October 2007, and
- (b) another relevant event occurs on or after 1st October 2007,

the offence must be charged under section 993 of the Companies Act 2006 (and not under section 458 of the 1985 Act or Article 451 of the 1986 Order).

(3) If in the case of any such offence a relevant event occurred before 15th January 2007(1) section 993(3)(a) applies with the substitution of “seven years” for “ten years”.

(4) “Relevant event” means an act, omission or other event (including any result of one or more acts or omissions) proof of which is required for conviction of the offence.

### **Protection of members against unfair prejudice (ss.994 to 999)**

**47.** Section 999 of the Companies Act 2006 (provisions applying where court order alters a company’s constitution) does not apply (by virtue of section 1297 of that Act) to an order of the court made before 1st October 2007.

### **Company investigations (ss.1035 to 1039)**

**48.** Sections 1035 to 1039 of the Companies Act 2006 (company investigations: amendments) apply where an inspector is appointed under a provision of Part 14 of the 1985 Act on or after 1st October 2007.

### **Repeal of requirement for private companies to lay accounts and reports before general meeting**

**49.**—(1) The repeals of—

- (a) section 241 of the 1985 Act or Article 264 of the 1986 Order (accounts and reports to be laid before company in general meeting) as it applies to private companies, and
- (b) sections 252 and 253 of the 1985 Act or Articles 260 and 261 of the 1986 Order (election by private company to dispense with laying of accounts and report before general meeting),

have effect in relation to annual accounts and reports for financial years ending on or after 1st October 2007.

(2) Those provisions continue to have effect in relation to annual accounts for reports for financial years ending before that date.

### **Repeal of definition of “connected person”**

**50.** The repeal of section 346 of and Schedule 13 to the 1985 Act or Article 354 of and Schedule 13 to the 1986 Order (meaning of “connected person”) does not affect—

- (a) section 317(3)(b) of the 1985 Act or Article 325(3)(b) of the 1986 Order (directors to disclose interest in contracts);
- (b) section 7E and 7F(3) of the Industrial and Provident Societies Act 1965 or section 7D and 7E(3) of the Industrial and Provident Societies Act (Northern Ireland) 1969 (transactions

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(1) The date on which section 10 of the Fraud Act 2006 (c.35) came into effect; see paragraph 2 of Schedule 2 to that Act and article 2 of the Fraud Act 2006 (Commencement) Order 2006 (S.I. 2006/3200).

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument:  
*The Companies Act 2006 (Commencement No. 4 and Commencement No. 3 (Amendment)) Order 2007 No. 2607*

with committee members: whether person “connected with” committee member or “associated with” society);

- (c) section 96B(2)(a) of the Financial Services and Markets Act 2000<sup>(2)</sup> (disclosure rules: responsibility for compliance: meaning of person connected with person having managerial responsibilities within an issuer).

### **Provisions relating to trial and punishment of offences**

**51.** Any saving in this Schedule for the effect of a provision of the 1985 Act or 1986 Order that creates an offence extends to the entry relating to that provision in Schedule 24 to that Act or Schedule 23 to that Order (punishment of offences).

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(2) 2000 c.8; section 96B was inserted by S.I. 2005/381.