



Companies (Audit, Investigations and Community Enterprise) Act 2004

2004 CHAPTER 27

PART 1

AUDITORS, ACCOUNTS, DIRECTORS' LIABILITIES AND INVESTIGATIONS

CHAPTER 2

ACCOUNTS AND REPORTS

Auditing of accounts

8 Auditors' rights to information

For section 389A of the Companies Act 1985 (c. 6) substitute—

“389A Rights to information

- (1) An auditor of a company—
 - (a) has a right of access at all times to the company's books, accounts and vouchers (in whatever form they are held), and
 - (b) may require any of the persons mentioned in subsection (2) to provide him with such information or explanations as he thinks necessary for the performance of his duties as auditor.
- (2) Those persons are—
 - (a) any officer or employee of the company;
 - (b) any person holding or accountable for any of the company's books, accounts or vouchers;

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- (c) any subsidiary undertaking of the company which is a body corporate incorporated in Great Britain;
 - (d) any officer, employee or auditor of any such subsidiary undertaking or any person holding or accountable for any books, accounts or vouchers of any such subsidiary undertaking;
 - (e) any person who fell within any of paragraphs (a) to (d) at a time to which the information or explanations required by the auditor relates or relate.
- (3) Where a parent company has a subsidiary undertaking which is not a body corporate incorporated in Great Britain, the auditor of the parent company may require it to obtain from any of the persons mentioned in subsection (4) such information or explanations as he may reasonably require for the purposes of his duties as auditor.
- (4) Those persons are—
- (a) the undertaking;
 - (b) any officer, employee or auditor of the undertaking;
 - (c) any person holding or accountable for any of the undertaking's books, accounts or vouchers;
 - (d) any person who fell within paragraph (b) or (c) at a time to which the information or explanations relates or relate.
- (5) If so required, the parent company must take all such steps as are reasonably open to it to obtain the information or explanations from the person within subsection (4) from whom the auditor has required the company to obtain the information or explanations.
- (6) A statement made by a person in response to a requirement under subsection (1) (b) or (3) may not be used in evidence against him in any criminal proceedings except proceedings for an offence under section 389B.
- (7) Nothing in this section or section 389B compels any person to disclose information in respect of which in an action in the High Court a claim to legal professional privilege, or in an action in the Court of Session a claim to confidentiality of communications, could be maintained.

389B Offences relating to the provision of information to auditors

- (1) If a person knowingly or recklessly makes to an auditor of a company a statement (oral or written) that—
- (a) conveys or purports to convey any information or explanations which the auditor requires, or is entitled to require, under section 389A(1)(b), and
 - (b) is misleading, false or deceptive in a material particular,
- the person is guilty of an offence and liable to imprisonment or a fine, or both.
- (2) A person who fails to comply with a requirement under section 389A(1)(b) without delay is guilty of an offence and is liable to a fine.
- (3) However, it is a defence for a person charged with an offence under subsection (2) to prove that it was not reasonably practicable for him to provide the required information or explanations.

(4) If a company fails to comply with section 389A(5), the company and every officer of it who is in default is guilty of an offence and liable to a fine.

(5) Nothing in this section affects any right of an auditor to apply for an injunction to enforce any of his rights under section 389A.”

9 Statement in directors' report as to disclosure of information to auditors

(1) Part 7 of the Companies Act 1985 (c. 6) (accounts and audit) is amended as follows.

(2) In section 234 (duty to prepare directors' report), after subsection (2) insert—

“(2A) If section 234ZA applies to the report, it shall contain the statement required by subsection (2) of that section.”

(3) After section 234 insert—

“234ZA Statement as to disclosure of information to auditors

(1) This section applies to a directors' report unless the directors have taken advantage of the exemption conferred by section 249A(1) or 249AA(1).

(2) The report must contain a statement to the effect that, in the case of each of the persons who are directors at the time when the report is approved under section 234A, the following applies—

- (a) so far as the director is aware, there is no relevant audit information of which the company's auditors are unaware, and
- (b) he has taken all the steps that he ought to have taken as a director in order to make himself aware of any relevant audit information and to establish that the company's auditors are aware of that information.

(3) In subsection (2) “relevant audit information” means information needed by the company's auditors in connection with preparing their report.

(4) For the purposes of subsection (2) a director has taken all the steps that he ought to have taken as a director in order to do the things mentioned in paragraph (b) of that subsection if he has—

- (a) made such enquiries of his fellow directors and of the company's auditors for that purpose, and
- (b) taken such other steps (if any) for that purpose,

as were required by his duty as a director of the company to exercise due care, skill and diligence.

(5) In determining for the purposes of subsection (2) the extent of that duty in the case of a particular director, the following considerations (in particular) are relevant—

- (a) the knowledge, skill and experience that may reasonably be expected of a person carrying out the same functions as are carried out by the director in relation to the company, and
- (b) (so far as they exceed what may reasonably be so expected) the knowledge, skill and experience that the director in fact has.

- (6) Where a directors' report containing the statement required by subsection (2) is approved under section 234A but the statement is false, every director of the company who—
- (a) knew that the statement was false, or was reckless as to whether it was false, and
 - (b) failed to take reasonable steps to prevent the report from being approved,
- is guilty of an offence and liable to imprisonment or a fine, or both.”

Defective accounts

10 Persons authorised to apply to court in connection with defective accounts

- (1) Section 245C of the Companies Act 1985 (c. 6) (other persons authorised to apply to court) is amended as follows.

- (2) After subsection (1) insert—

“(1A) But where the order giving authorisation (see subsection (4)) is to contain any requirements or other provisions specified under subsection (4A), the Secretary of State may not authorise a person unless, in addition, it appears to him that the person would, if authorised, exercise his functions as an authorised person in accordance with any such requirements or provisions.”

- (3) After subsection (4) insert—

“(4A) An order under subsection (4) may contain such requirements or other provisions relating to the exercise of functions by the authorised person as appear to the Secretary of State to be appropriate.

(4B) If the authorised person is an unincorporated association, any relevant proceedings may be brought by or against that association in the name of any body corporate whose constitution provides for the establishment of the association.

For this purpose “relevant proceedings” means proceedings brought in, or in connection with, the exercise of any function by the association as an authorised person.”

11 Disclosure of tax information by Inland Revenue to facilitate application for declaration that accounts are defective

- (1) After section 245C of the Companies Act 1985 (c. 6) insert—

“245D Disclosure of information held by Inland Revenue to persons authorised to apply to court

- (1) Information which is held by or on behalf of the Commissioners of Inland Revenue may be disclosed to a person who is authorised under section 245C of this Act, or under Article 253C of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)), if the disclosure—

- (a) is made for a permitted purpose, and

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- (b) is made by the Commissioners or is authorised by them.
- (2) Such information—
 - (a) may be so disclosed despite any other restriction on the disclosure of information whether imposed by any statutory provision or otherwise, but
 - (b) in the case of personal data (within the meaning of the Data Protection Act 1998), may not be disclosed in contravention of that Act.
- (3) For the purposes of subsection (1), a disclosure is made for a permitted purpose if it is made for the purpose of facilitating—
 - (a) the taking of steps by the authorised person to discover whether there are grounds for an application to the court under section 245B of this Act or Article 253B of the Companies (Northern Ireland) Order 1986; or
 - (b) a determination by the authorised person as to whether or not to make such an application.
- (4) The power of the Commissioners to authorise a disclosure under subsection (1)(b) may be delegated (either generally or for a specified purpose) to an officer of the Board of Inland Revenue.

245E Restrictions on use and further disclosure of information disclosed under section 245D

- (1) Information that is disclosed to an authorised person under section 245D may not be used except in or in connection with—
 - (a) taking steps to discover whether there are grounds for an application to the court as mentioned in section 245D(3)(a);
 - (b) determining whether or not to make such an application; or
 - (c) proceedings on any such application.
- (2) Information that is disclosed to an authorised person under section 245D may not be further disclosed except—
 - (a) to the person to whom the information relates; or
 - (b) in or in connection with proceedings on any such application to the court.
- (3) A person who contravenes subsection (1) or (2) is guilty of an offence and liable to imprisonment or a fine, or both.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove—
 - (a) that he did not know, and had no reason to suspect, that the information had been disclosed under section 245D; or
 - (b) that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.
- (5) Sections 732 (restriction on prosecutions), 733(2) and (3) (liability of individuals for corporate default) and 734 (criminal proceedings against unincorporated bodies) apply to offences under this section.”

- (2) After Article 253C of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)) insert—

“253D Disclosure of information held by Inland Revenue to persons authorised to apply to court

- (1) Information which is held by or on behalf of the Commissioners of Inland Revenue may be disclosed to a person who is authorised under Article 253C, or under section 245C of the Companies Act 1985, if the disclosure—
 - (a) is made for a permitted purpose, and
 - (b) is made by the Commissioners or is authorised by them.
- (2) Such information—
 - (a) may be so disclosed despite any other restriction on the disclosure of information whether imposed by any statutory provision or otherwise, but
 - (b) in the case of personal data (within the meaning of the Data Protection Act 1998), may not be disclosed in contravention of that Act.
- (3) For the purposes of paragraph (1), a disclosure is made for a permitted purpose if it is made for the purpose of facilitating—
 - (a) the taking of steps by the authorised person to discover whether there are grounds for an application to the court under Article 253B or section 245B of the Companies Act 1985; or
 - (b) a determination by the authorised person as to whether or not to make such an application.
- (4) The power of the Commissioners to authorise a disclosure under paragraph (1) (b) may be delegated (either generally or for a specified purpose) to an officer of the Board of Inland Revenue.

253E Restrictions on use and further disclosure of information disclosed under Article 253D

- (1) Information that is disclosed to an authorised person under Article 253D may not be used except in or in connection with—
 - (a) taking steps to discover whether there are grounds for an application to the court as mentioned in Article 253D(3)(a);
 - (b) determining whether or not to make such an application; or
 - (c) proceedings on any such application.
- (2) Information that is disclosed to an authorised person under Article 253D may not be further disclosed except—
 - (a) to the person to whom the information relates; or
 - (b) in or in connection with proceedings on any such application to the court.
- (3) A person who contravenes paragraph (1) or (2) is guilty of an offence and liable to imprisonment or a fine, or both.
- (4) It is a defence for a person charged with an offence under paragraph (3) to prove—

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- (a) that he did not know, and had no reason to suspect, that the information had been disclosed under Article 253D; or
- (b) that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

(5) Articles 680 (restriction on prosecutions), 680A (liability of individuals for corporate default) and 680B (criminal proceedings against unincorporated bodies) apply to offences under this Article.”

12 Power of person authorised to require documents, information and explanations

(1) After section 245E of the Companies Act 1985 (c. 6) (as inserted by clause 11) insert—

“245F Power of authorised persons to require documents, information and explanations

- (1) This section applies where it appears to a person who is authorised under section 245C of this Act that there is, or may be, a question whether the annual accounts of a company comply with the requirements of this Act.
- (2) The authorised person may require any of the persons mentioned in subsection (3) to produce any document, or to provide him with any information or explanations, that he may reasonably require for the purpose of—
 - (a) discovering whether there are grounds for an application to the court under section 245B; or
 - (b) determining whether or not to make such an application.
- (3) Those persons are—
 - (a) the company;
 - (b) any officer, employee, or auditor of the company;
 - (c) any persons who fell within paragraph (b) at a time to which the document or information required by the authorised person relates.
- (4) If a person fails to comply with a requirement under subsection (2), the authorised person may apply to the court for an order under subsection (5).
- (5) If on such an application the court decides that the person has failed to comply with the requirement under subsection (2), it may order the person to take such steps as it directs for securing that the documents are produced or the information or explanations are provided.
- (6) A statement made by a person in response to a requirement under subsection (2) or an order under subsection (5) may not be used in evidence against him in any criminal proceedings.
- (7) Nothing in this section compels any person to disclose documents or information in respect of which in an action in the High Court a claim to legal professional privilege, or in an action in the Court of Session a claim to confidentiality of communications, could be maintained.
- (8) In this section “document” includes information recorded in any form.

245G Restrictions on further disclosure of information obtained under section 245F

- (1) This section applies to information (in whatever form) which—
 - (a) has been obtained in pursuance of a requirement or order under section 245F, and
 - (b) relates to the private affairs of an individual or to any particular business.
- (2) No such information may, during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.
- (3) Subsection (2) does not apply to any disclosure of information which—
 - (a) is made for the purpose of facilitating the carrying out by a person authorised under section 245C of his functions under section 245B;
 - (b) is made to a person specified in Part 1 of Schedule 7B;
 - (c) is of a description specified in Part 2 of that Schedule; or
 - (d) is made in accordance with Part 3 of that Schedule.
- (4) The Secretary of State may by order amend Schedule 7B.
- (5) An order under subsection (4) must not—
 - (a) amend Part 1 of Schedule 7B by specifying a person unless the person exercises functions of a public nature (whether or not he exercises any other function);
 - (b) amend Part 2 of Schedule 7B by adding or modifying a description of disclosure unless the purpose for which the disclosure is permitted is likely to facilitate the exercise of a function of a public nature;
 - (c) amend Part 3 of Schedule 7B so as to have the effect of permitting disclosures to be made to a body other than one that exercises functions of a public nature in a country or territory outside the United Kingdom.
- (6) An order under subsection (4) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) A person who discloses any information in contravention of this section—
 - (a) is guilty of an offence, and
 - (b) is liable on conviction to imprisonment or a fine, or both.
- (8) However, it is a defence for a person charged with an offence under subsection (7) to prove—
 - (a) that he did not know, and had no reason to suspect, that the information had been disclosed under section 245F; or
 - (b) that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.
- (9) Sections 732 (restriction on prosecutions), 733 (liability of individuals for corporate default) and 734 (criminal proceedings against unincorporated bodies) apply to offences under this section.

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- (10) This section does not prohibit the disclosure of information if the information is or has been available to the public from any other source.
 - (11) Nothing in this section authorises the making of a disclosure in contravention of the Data Protection Act 1998.”
- (2) Schedule 1 (which inserts Schedule 7B in the Companies Act 1985 (c. 6)) has effect.

Directors' reports

13 Power to specify bodies who may issue reporting standards

In section 257 of the Companies Act 1985 (power of Secretary of State to alter accounting requirements), after subsection (4) insert—

- “(4A) Regulations under this section may also make provision—
- (a) for the issuing, by such body or bodies as may be specified, of standards in relation to matters to be contained in reports which are required by this Part to be prepared by the directors of a company;
 - (b) for directors of a company who have complied with any such standard, or any of its provisions, in relation to any such report, to be presumed (unless the contrary is proved) to have complied with any requirements of this Part relating to the contents of the report to which the standard or provision relates.
- (4B) In subsection (4A) “specified” means specified in an order made by the Secretary of State; and such an order—
- (a) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament;
 - (b) may contain such transitional provisions as the Secretary of State thinks fit.”

Supervision of accounts and reports

14 Supervision of periodic accounts and reports of issuers of listed securities

- (1) The Secretary of State may make an order appointing a body (“the prescribed body”) to exercise the functions mentioned in subsection (2).
- (2) The functions are—
 - (a) keeping under review periodic accounts and reports that are produced by issuers of listed securities and are required to comply with any accounting requirements imposed by listing rules; and
 - (b) if the prescribed body thinks fit, informing the Financial Services Authority of any conclusions reached by the body in relation to any such accounts or report.
- (3) A body may be appointed under this section if it is a body corporate or an unincorporated association which appears to the Secretary of State—
 - (a) to have an interest in, and to have satisfactory procedures directed to, monitoring compliance by issuers of listed securities with accounting requirements imposed by listing rules in relation to periodic accounts and reports produced by such issuers; and

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- (b) otherwise to be a fit and proper body to be appointed.
- (4) But where the order is to contain any requirements or other provisions specified under subsection (8), the Secretary of State may not appoint a body unless, in addition, it appears to him that the body would, if appointed, exercise its functions as a prescribed body in accordance with any such requirements or provisions.
- (5) A body may be appointed either generally or in respect of any of the following, namely—
- (a) any particular class or classes of issuers,
 - (b) any particular class or classes of periodic accounts or reports,
- and different bodies may be appointed in respect of different classes within either or both of paragraphs (a) and (b).
- (6) In relation to the appointment of a body in respect of any such class or classes, subsections (2) and (3) are to be read as referring to issuers, or (as the case may be) to periodic accounts or reports, of the class or classes concerned.
- (7) Where—
- (a) a body is so appointed, but
 - (b) the Financial Services Authority requests the body to exercise its functions under subsection (2) in relation to any particular issuer of listed securities in relation to whom those functions would not otherwise be exercisable,
- the body is to exercise those functions in relation to that issuer as well.
- (8) An order under this section may contain such requirements or other provisions relating to the exercise of functions by the prescribed body as appear to the Secretary of State to be appropriate.
- (9) If the prescribed body is an unincorporated association, any relevant proceedings may be brought by or against that body in the name of any body corporate whose constitution provides for the establishment of the body.
- For this purpose “relevant proceedings” means proceedings brought in or in connection with the exercise of any function by the body as a prescribed body.
- (10) Where an appointment is revoked, the revoking order may make such provision as the Secretary of State thinks fit with respect to pending proceedings.
- (11) The power to make an order under this section is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) In this section—
- “issuer”, “listing rules” and “security” have the meaning given by section 103(1) of the Financial Services and Markets Act 2000 (c. 8) (interpretation of Part 6);
 - “periodic” accounts and reports means accounts and reports which are required by listing rules to be produced periodically.

15 Application of provisions inserted by sections 11 and 12 to bodies appointed under section 14

- (1) The following provisions apply, in accordance with this section, in relation to prescribed bodies and their functions under section 14 of this Act—

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- (a) sections 245D and 245E of the Companies Act 1985 (c. 6) (as inserted by section 11(1) of this Act),
 - (b) Articles 253D and 253E of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)) (as inserted by section 11(2) of this Act), and
 - (c) sections 245F and 245G of and Schedule 7B to the Companies Act 1985 (as inserted by section 12(1) of this Act).
- (2) Sections 245D and 245E apply in relation to prescribed bodies and their functions as they apply in relation to persons authorised under section 245C of that Act and persons authorised under Article 253C of the Companies (Northern Ireland) Order 1986 and the functions of such persons mentioned in sections 245D(3) and 245E(1).

But section 245E so applies as if subsection (2)(b) of that section were omitted.

- (3) Articles 253D and 253E apply in relation to prescribed bodies and their functions as they apply in relation to persons authorised under Article 253C of that Order and persons authorised under section 245C of the Companies Act 1985 and the functions of such persons mentioned in Articles 253D(3) and 253E(1).

But Article 253E so applies as if paragraph (2)(b) of that Article were omitted.

- (4) Sections 245F and 245G and Schedule 7B apply in relation to prescribed bodies and their functions as they apply in relation to persons authorised under section 245C of that Act and the functions of such persons mentioned in section 245F(2), section 245G(3)(a) and paragraph 16 of Schedule 7B.

- (5) But section 245F so applies as if—

- (a) subsection (1) of that section provided that the section applies where it appears to a prescribed body that there is, or may be, a question whether any relevant accounts or reports produced by an issuer of listed securities comply with any accounting requirements imposed by listing rules;
- (b) the references in section 245F(3)(a) and (b) to “the company” were references to that issuer; and
- (c) the references in section 245F(4) and (5) to “the court” were to the High Court or, in Scotland, the Court of Session.

- (6) In subsection (5)—

- (a) “relevant accounts or reports” means accounts or reports in relation to which the prescribed body has functions under section 14; and
- (b) “issuer”, “listing rules” and “security” have the same meanings as in section 14.

- (7) In this section “prescribed body” has the same meaning as in section 14.

Bodies concerned with accounting standards etc.

16 Grants to bodies concerned with accounting standards etc.

- (1) The Secretary of State may make grants to any body carrying on activities concerned with any of the matters set out in subsection (2).

- (2) The matters are—

- (a) issuing accounting standards;

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- (b) issuing standards in respect of matters to be contained in reports required to be produced by auditors or company directors;
 - (c) investigating departures from standards within paragraph (a) or (b) or from the accounting requirements of the Companies Act 1985 (c. 6) or any requirements of directly applicable Community legislation relating to company accounts;
 - (d) taking steps to secure compliance with such standards or requirements;
 - (e) keeping under review periodic accounts and reports that are produced by issuers of listed securities and are required to comply with any accounting requirements imposed by listing rules;
 - (f) establishing, maintaining or carrying out arrangements within paragraph 17, 18, 19(1) or 20(1) of Schedule 11 to the Companies Act 1989 (c. 40);
 - (g) exercising functions of the Secretary of State under Part 2 of that Act;
 - (h) carrying out investigations into public interest cases arising in connection with the performance of accountancy functions by members of professional accountancy bodies;
 - (i) holding disciplinary hearings relating to members of such bodies following the conclusion of such investigations;
 - (j) deciding whether (and, if so, what) disciplinary action should be taken against members of such bodies to whom such hearings related;
 - (k) supervising the exercise by such bodies of regulatory functions in relation to their members;
 - (l) overseeing or directing any of the matters mentioned above.
- (3) A grant may be made to a body within subsection (1) in respect of any of its activities.
- (4) For the purposes of this section—
- (a) a body is to be regarded as carrying on any subsidiary activities of the body; and
 - (b) a body's "subsidiary activities" are activities carried on by any of its subsidiaries or by any body established under its constitution or under the constitution of such a subsidiary.
- (5) In this section—
- "accountancy functions" means functions performed as an accountant, whether in the capacity of auditor or otherwise;
 - "company" means a company within the meaning of the Companies Act 1985 (c. 6);
 - "issuer", "listing rules" and "security" have the meaning given by section 103(1) of the Financial Services and Markets Act 2000 (c. 8) (interpretation of Part 6);
 - "professional accountancy body" means—
 - (a) a supervisory body which is recognised for the purposes of Part 2 of the Companies Act 1989 (c. 40), or
 - (b) a qualifying body, as defined by section 32 of that Act, which enforces rules as to the performance of accountancy functions by its members, and references to the members of professional accountancy bodies include persons who, although not members of such bodies, are subject to their rules in performing accountancy functions;

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“public interest cases” means matters which raise or appear to raise important issues affecting the public interest;

“regulatory functions”, in relation to professional accountancy bodies, means any of the following functions—

- (a) investigatory or disciplinary functions exercised by such bodies in relation to the performance by their members of accountancy functions,
- (b) the setting by such bodies of standards in relation to the performance by their members of accountancy functions, and
- (c) the determining by such bodies of requirements in relation to the education and training of their members;

“subsidiary” has the meaning given by section 736 of the Companies Act 1985.

(6) In their application to Scotland—

- (a) subsection (2)(a) is to be read as referring only to accounting standards applying in relation to the accounts of companies or bodies (other than companies) established for the purpose of carrying on any kind of business, whether or not for profit;
- (b) subsection (2)(h) to (j) are to be read as referring only to accountancy functions performed in relation to companies or such bodies, and
- (c) subsection (2)(k) is to be read as referring only to regulatory functions exercised in relation to the performance of such accountancy functions;

and in paragraph (a) above “business” includes the provision of benefits to members of the body concerned.

(7) Omit section 256(3) of the Companies Act 1985 (c. 6) (grants to bodies concerned with issuing accounting standards etc.), which is superseded by this section.

17 Levy to pay expenses of bodies concerned with accounting standards etc.

(1) For the purpose of meeting any part of the expenses of a grant-aided body, the Secretary of State may by regulations provide for a levy to be payable to that body (“the specified recipient”) by bodies or persons which are specified, or are of a description specified, in the regulations.

(2) For the purposes of this section—

- (a) “grant-aided body” means a body to whom the Secretary of State has paid, or is proposing to pay, grant under section 16; and
- (b) any expenses of any body carrying on subsidiary activities of the grant-aided body (within the meaning of that section) are to be regarded as expenses of the grant-aided body.

(3) The power to specify (or to specify descriptions of) bodies or persons must be exercised in such a way that the levy is only payable by—

- (a) bodies corporate to which the Secretary of State considers that any of the activities of the specified recipient, or any of its subsidiary activities, are relevant to a significant extent, or
- (b) bodies or persons who the Secretary of State considers have a major interest in any of those activities being carried on.

(4) Regulations under this section may in particular—

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- (a) specify the rate of the levy and the period in respect of which it is payable at that rate;
 - (b) make provision as to the times when, and the manner in which, payments are to be made in respect of the levy.
- (5) In determining the rate of the levy payable in respect of a particular period, the Secretary of State—
- (a) must take into account the amount of any grant which is to be or has been made to the specified recipient in respect of that period under section 16;
 - (b) may take into account estimated as well as actual expenses of that body in respect of that period.
- (6) Any amount of levy payable by any body or person is a debt due from the body or person to the specified recipient, and is recoverable accordingly.
- (7) The specified recipient must—
- (a) keep proper accounts in respect of amounts of levy received, and
 - (b) prepare in relation to each levy period a statement of account relating to such amounts in such form and manner as is specified in the regulations.
- (8) Those accounts must be audited, and the statement certified, by persons appointed by the Secretary of State.
- (9) The power to make regulations under this section is exercisable by statutory instrument.
- (10) Regulations to which this subsection applies may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (11) Subsection (10) applies to—
- (a) the first regulations under this section, and
 - (b) any other regulations under this section that would result in any change in the bodies or persons by whom the levy is payable.
- (12) Otherwise, any statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

18 Exemption from liability

- (1) Where a grant has been paid by the Secretary of State to a body under section 16, this section prevents any liability in damages arising in respect of certain acts or omissions occurring during the period of 12 months beginning with the date on which the grant was paid.
- (2) In this section—
- “the exemption period” means the period of 12 months mentioned in subsection (1);
 - “a relevant body” means the body mentioned in that subsection or a body carrying on any subsidiary activities of that body (within the meaning of section 16);
 - “section 16(2) activities” means activities concerned with any of the matters set out in section 16(2).

- (3) Neither a relevant body, nor any person who is (or is acting as) a member, officer or member of staff of a relevant body, is to be liable in damages for anything done, or omitted to be done, during the exemption period for the purposes of or in connection with—
- (a) the carrying on of any section 16(2) activities of the body, or
 - (b) the purported carrying on of any such activities.
- (4) Subsection (3) does not apply—
- (a) if the act or omission is shown to have been in bad faith; or
 - (b) so as to prevent an award of damages in respect of the act or omission on the grounds that it was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42) (acts of public authorities incompatible with Convention rights).