

SCHEDULES

SCHEDULE 1

Section 12

NEW SCHEDULE 7B TO THE COMPANIES ACT 1985

In the Companies Act 1985 (c. 6), after Schedule 7A insert—

“SCHEDULE 7B

Section 245G(3)

SPECIFIED PERSONS, DESCRIPTIONS OF DISCLOSURES ETC. FOR THE PURPOSES OF SECTION 245G

PART 1

SPECIFIED PERSONS

- 1 The Secretary of State.
- 2 The Department of Enterprise, Trade and Investment for Northern Ireland.
- 3 The Treasury.
- 4 The Bank of England.
- 5 The Financial Services Authority.
- 6 The Commissioners of Inland Revenue.

PART 2

SPECIFIED DESCRIPTIONS OF DISCLOSURES

- 7 A disclosure for the purpose of assisting a body designated by an order under section 46 of the Companies Act 1989 (delegation of functions of Secretary of State) to exercise its functions under Part 2 of that Act.
- 8 A disclosure with a view to the institution of, or otherwise for the purposes of, disciplinary proceedings relating to the performance by an accountant or auditor of his professional duties.
- 9 A disclosure for the purpose of enabling or assisting the Secretary of State or the Treasury to exercise any of their functions under any of the following—
 - (a) this Act;
 - (b) the insider dealing legislation;
 - (c) the Insolvency Act 1986;
 - (d) the Company Directors Disqualification Act 1986;
 - (e) the Financial Services and Markets Act 2000.

Status: This is the original version (as it was originally enacted).

- 10 A disclosure for the purpose of enabling or assisting the Department of Enterprise, Trade and Investment for Northern Ireland to exercise any powers conferred on it by the enactments relating to companies or insolvency.
- 11 A disclosure for the purpose of enabling or assisting the Bank of England to exercise its functions.
- 12 A disclosure for the purpose of enabling or assisting the Commissioners of Inland Revenue to exercise their functions.
- 13 A disclosure for the purpose of enabling or assisting the Financial Services Authority to exercise its functions under any of the following—
- (a) the legislation relating to friendly societies or to industrial and provident societies;
 - (b) the Building Societies Act 1986;
 - (c) Part 7 of the Companies Act 1989;
 - (d) the Financial Services and Markets Act 2000.
- 14 A disclosure in pursuance of any Community obligation.

PART 3

OVERSEAS REGULATORY BODIES

- 15 A disclosure is made in accordance with this Part of this Schedule if—
- (a) it is made to a body within paragraph 16, and
 - (b) it is made for the purpose of enabling or assisting that body to exercise the functions mentioned in that paragraph.
- 16 A body is within this paragraph if it exercises functions of a public nature under legislation in any country or territory outside the United Kingdom which appear to the authorised person to be similar to his functions under section 245B of this Act.
- 17 In determining whether to disclose information to a body in accordance with this Part of this Schedule, the authorised person must have regard to the following considerations—
- (a) whether the use which the body is likely to make of the information is sufficiently important to justify making the disclosure; and
 - (b) whether the body has adequate arrangements to prevent the information from being used or further disclosed other than for the purposes of carrying out the functions mentioned in paragraph 16 or any other purposes substantially similar to those for which information disclosed to the authorised person could be used or further disclosed.”

SCHEDULE 2

Section 25

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 1

PART 1

AMENDMENTS RELATING TO AUDITORS

Companies Act 1989 (c. 40)

- 1 The Companies Act 1989 has effect subject to the following amendments.
- 2 In section 30(5), for “Parts I and II” substitute “Parts I, II and III”.
- 3 In the following provisions, for “established” substitute “designated”—
 - (a) sections 40(1)(a) and 47(3)(c);
 - (b) section 87(4) in the entry relating to bodies established by order under section 46 of the Act.

Companies (Northern Ireland) Order 1990 (S.I. 1990/593(N.I. 5))

- 4 In the Companies (Northern Ireland) Order 1990, omit Article 49 and Schedule 14 (supervisory and qualifying bodies: restrictive practices).

PART 2

AMENDMENTS RELATING TO ACCOUNTS AND REPORTS

Companies Act 1985 (c. 6)

- 5 The Companies Act 1985 has effect subject to the following amendments.
- 6 In section 249E(2)(d) (rights to information)—
 - (a) for “section 389A(1) and (2)” substitute “sections 389A(1) and 389B(1) and (5)”; and
 - (b) for “the auditors” substitute “an auditor”.
- 7 In section 732(1) and (2)(a) (prosecution by public authorities), after “210,” insert “245E, 245G,”.
- 8 In section 733(1) (offences by body corporate), after “216(3)” insert “, 245E(3), 245G(7)”.
- 9 In section 734(1) (criminal proceedings against unincorporated bodies)—
 - (a) after “under” insert “section 245E(3), section 245G(7),”; and
 - (b) omit “section 389A(3) or”.
- 10 (1) Schedule 24 (punishment of offences) is amended as follows.
(2) After the entry relating to section 234(5) insert—

“234ZA(6)	Making a statement in a	1. On indictment	2 years or a fine; — or both
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Status: This is the original version (as it was originally enacted).

	directors' report as mentioned in section 234ZA(2) which is false	2. Summary	12 months or the statutory maximum; or both”.	
(3) After the entry relating to section 241A(10) insert—				
“245E(3)	Using or disclosing tax information in contravention of section 245E(1) or (2)	1. On indictment 2. Summary	2 years or a fine; — or both 12 months or the statutory maximum; or both	
245G(7)	Disclosing information in contravention of section 245G(2) and (3)	1. On indictment 2. Summary	2 years or a fine; — or both 12 months or the statutory maximum; or both”.	
(4) For the entries relating to sections 389A(2), 389A(3) and 389A(4) substitute—				
“389B(1)	Person making false, misleading or deceptive statement to auditor	1. On indictment 2. Summary	2 years or a fine; — or both 12 months or the statutory maximum; or both	
389B(2)	Failure to provide information or explanations to auditor	Summary	Level 3 on the standard scale	—
389B(4)	Parent company failing to obtain from subsidiary undertaking information for purposes of audit	Summary	Level 3 on the standard scale	—”.

Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6))

- 11 The Companies (Northern Ireland) Order 1986 has effect subject to the following amendments.
- 12 In Article 680(1) and (2)(a) (prosecution by public authorities), after “218,” insert “253E,”.
- 13 In Article 680A(1) (offences by bodies corporate), after “224(3),” insert “253E(3),”.

Status: This is the original version (as it was originally enacted).

- 14 In Article 680B(1) (criminal proceedings against unincorporated bodies), after “Articles” insert “253E(3)”.
- 15 In Schedule 23 (punishment of offences), after the entry relating to Articles 249(2) and 250(2) insert—

“253E(3)	Using or disclosing tax information in contravention of Article 253E(1) or (2)	1. On indictment 2. Summary	2 years or a fine; or both 3 months or the statutory maximum; or both”.	—
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PART 3

AMENDMENTS RELATING TO INVESTIGATIONS

Companies Act 1985 (c. 6)

- 16 The Companies Act 1985 has effect subject to the following amendments.
- 17 After section 447 insert—

“447A Information provided: evidence

- (1) A statement made by a person in compliance with a requirement under section 447 may be used in evidence against him.
- (2) But in criminal proceedings in which the person is charged with a relevant offence—
- (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) A relevant offence is any offence other than the following—
- (a) an offence under section 451,
 - (b) an offence under section 5 of the Perjury Act 1911 (false statement made otherwise than on oath), or
 - (c) an offence under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statement made otherwise than on oath).”

- 18 For section 449 substitute—

“449 Provision for security of information obtained

- (1) This section applies to information (in whatever form) obtained—
- (a) in pursuance of a requirement imposed under section 447;
 - (b) by means of a relevant disclosure within the meaning of section 448A(2);

Status: This is the original version (as it was originally enacted).

- (c) by an investigator in consequence of the exercise of his powers under section 453A.
- (2) Such information must not be disclosed unless the disclosure—
 - (a) is made to a person specified in Schedule 15C, or
 - (b) is of a description specified in Schedule 15D.
- (3) The Secretary of State may by order amend Schedules 15C and 15D.
- (4) An order under subsection (3) must not—
 - (a) amend Schedule 15C by specifying a person unless the person exercises functions of a public nature (whether or not he exercises any other function);
 - (b) amend Schedule 15D 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.
- (5) An order under subsection (3) must be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) 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 to both.
- (7) Sections 732 (restriction on prosecutions), 733 (liability of individuals for corporate default) and 734 (criminal proceedings against unincorporated bodies) apply to the offence under subsection (6).
- (8) Any information which may by virtue of this section be disclosed to a person specified in Schedule 15C may be disclosed to any officer or employee of the person.
- (9) This section does not prohibit the disclosure of information if the information is or has been available to the public from any other source.
- (10) For the purposes of this section, information obtained by an investigator in consequence of the exercise of his powers under section 453A includes information obtained by a person accompanying the investigator in pursuance of subsection (4) of that section in consequence of that person's accompanying the investigator.
- (11) Nothing in this section authorises the making of a disclosure in contravention of the Data Protection Act 1998.”

19 For section 451 substitute—

“451 Punishment for furnishing false information

- (1) A person commits an offence if in purported compliance with a requirement under section 447 to provide information—
 - (a) he provides information which he knows to be false in a material particular;
 - (b) he recklessly provides information which is false in a material particular.

Status: This is the original version (as it was originally enacted).

- (2) A person guilty of an offence under this section is liable on conviction to imprisonment or a fine or to both.
- (3) Sections 732 (restriction on prosecutions), 733 (liability of individuals for corporate default) and 734 (criminal proceedings against unincorporated bodies) apply to an offence under this section.”
- 20 (1) Section 451A (disclosure of certain information) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) This section applies to information obtained—
- (a) under sections 434 to 446;
- (b) by an inspector in consequence of the exercise of his powers under section 453A.”
- (3) After subsection (5) insert—
- “(6) For the purposes of this section, information obtained by an inspector in consequence of the exercise of his powers under section 453A includes information obtained by a person accompanying the inspector in pursuance of subsection (4) of that section in consequence of that person’s accompanying the inspector.
- (7) The reference to an inspector in subsection (2)(b) above includes a reference to a person accompanying an inspector in pursuance of section 453A(4).”
- 21 In section 452—
- (a) for subsection (1) substitute—
- “(1) Nothing in sections 431 to 446 compels the disclosure by any person to the Secretary of State or to an inspector appointed by him of 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.”
- (b) for subsections (2) and (3) substitute—
- “(2) Nothing in sections 447 to 451—
- (a) compels the production by any person of a document or the disclosure by any person of 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;
- (b) authorises the taking of possession of any such document which is in the person’s possession.
- (3) The Secretary of State must not under section 447 require, or authorise a person to require—
- (a) the production by a person carrying on the business of banking of a document relating to the affairs of a customer of his, or
- (b) the disclosure by him of information relating to those affairs,

Status: This is the original version (as it was originally enacted).

unless one of the conditions in subsection (4) is met.

(4) The conditions are—

- (a) the Secretary of State thinks it is necessary to do so for the purpose of investigating the affairs of the person carrying on the business of banking;
- (b) the customer is a person on whom a requirement has been imposed under section 447;
- (c) the customer is a person on whom a requirement to produce information or documents has been imposed by an investigator appointed by the Secretary of State in pursuance of section 171 or 173 of the Financial Services and Markets Act 2000 (powers of persons appointed under section 167 or as a result of section 168(2) to conduct an investigation).

(5) Despite subsections (1) and (2) a person who is a lawyer may be compelled to disclose the name and address of his client.”

22 In section 732 (prosecution by public authorities)—

- (a) in subsection (1), for “447 to 451” substitute “448, 449 to 451, 453A”;
- (b) in subsection (2)(b), for “447 to 451” substitute “448, 449 to 451 and 453A”.
- (c) in subsection (3), after “privilege” insert “or, in Scotland, confidentiality of communications”.

23 In section 733 (offences by bodies corporate)—

- (a) in subsection (1), for “and 447 to 451” substitute “, 448, 449 to 451 and 453A”;
- (b) in subsection (4), for “447 to 451” substitute “448, 449 to 451 and 453A”.

24 In section 734(1) (criminal proceedings against unincorporated bodies), for “447 to 451” substitute “448, 449 to 451 or section 453A”.

25 After Schedule 15B insert—

“SCHEDULE
15C

Section 449

SPECIFIED PERSONS

- 1 The Secretary of State.
- 2 The Department of Enterprise, Trade and Investment for Northern Ireland.
- 3 The Treasury.
- 4 The Lord Advocate.
- 5 The Director of Public Prosecutions.
- 6 The Director of Public Prosecutions for Northern Ireland.
- 7 The Financial Services Authority.
- 8 A constable.

Status: This is the original version (as it was originally enacted).

- 9 A procurator fiscal.
10 The Scottish Ministers.

SCHEDULE
15D

Section 449

DISCLOSURES

- 1 A disclosure for the purpose of enabling or assisting a person authorised under section 245C to exercise his functions.
- 2 A disclosure for the purpose of enabling or assisting an inspector appointed under Part 14 to exercise his functions.
- 3 A disclosure for the purpose of enabling or assisting a person authorised under section 447 of this Act or section 84 of the Companies Act 1989 to exercise his functions.
- 4 A disclosure for the purpose of enabling or assisting a person appointed under section 167 of the Financial Services and Markets Act 2000 (general investigations) to conduct an investigation to exercise his functions.
- 5 A disclosure for the purpose of enabling or assisting a person appointed under section 168 of the Financial Services and Markets Act 2000 (investigations in particular cases) to conduct an investigation to exercise his functions.
- 6 A disclosure for the purpose of enabling or assisting a person appointed under section 169(1)(b) of the Financial Services and Markets Act 2000 (investigation in support of overseas regulator) to conduct an investigation to exercise his functions.
- 7 A disclosure for the purpose of enabling or assisting a person appointed under section 284 of the Financial Services and Markets Act 2000 (investigations into affairs of certain collective investment schemes) to conduct an investigation to exercise his functions.
- 8 A disclosure for the purpose of enabling or assisting a person appointed under regulations made under sections 262(1) and (2)(k) of the Financial Services and Markets Act 2000 (investigations into open-ended investment companies) to conduct an investigation to exercise his functions.
- 9 A disclosure for the purpose of enabling or assisting the Secretary of State or the Treasury to exercise any of their functions under any of the following—
- (a) this Act;
 - (b) the insider dealing legislation;
 - (c) the Insolvency Act 1986;
 - (d) the Company Directors Disqualification Act 1986;
 - (e) Part 2, 3 or 7 of the Companies Act 1989;
 - (f) the Financial Services and Markets Act 2000.

Status: This is the original version (as it was originally enacted).

- 10 A disclosure for the purpose of enabling or assisting the Scottish Ministers to exercise their functions under the enactments relating to insolvency.
- 11 A disclosure for the purpose of enabling or assisting the Department of Enterprise, Trade and Investment for Northern Ireland to exercise any powers conferred on it by the enactments relating to companies or insolvency.
- 12 A disclosure for the purpose of enabling or assisting a person appointed or authorised by the Department of Enterprise, Trade and Investment for Northern Ireland under the enactments relating to companies or insolvency to exercise his functions.
- 13 A disclosure for the purpose of enabling or assisting the Occupational Pensions Regulatory Authority to exercise their functions under any of the following—
- (a) the Pension Schemes Act 1993;
 - (b) the Pensions Act 1995;
 - (c) any enactment in force in Northern Ireland corresponding to either of the above.
- 14 A disclosure for the purpose of enabling or assisting the Bank of England to exercise its functions.
- 15 A disclosure for the purpose of enabling or assisting the body known as the Panel on Takeovers and Mergers to exercise its functions.
- 16 A disclosure for the purpose of enabling or assisting organs of the Society of Lloyd's (being organs constituted by or under the Lloyd's Act 1982) to exercise their functions under or by virtue of the Lloyd's Acts 1871 to 1982.
- 17 A disclosure for the purpose of enabling or assisting the Office of Fair Trading to exercise its functions under any of the following—
- (a) the Fair Trading Act 1973;
 - (b) the Consumer Credit Act 1974;
 - (c) the Estate Agents Act 1979;
 - (d) the Competition Act 1980;
 - (e) the Competition Act 1998;
 - (f) the Financial Services and Markets Act 2000;
 - (g) the Enterprise Act 2002;
 - (h) the Control of Misleading Advertisements Regulations 1988 (S.I. 1988/915);
 - (i) the Unfair Terms in Consumer Contracts Regulations 1999 (S.I. 1999/2083).
- 18 A disclosure for the purpose of enabling or assisting the Competition Commission to exercise its functions under any of the following—
- (a) the Fair Trading Act 1973;
 - (b) the Competition Act 1980;
 - (c) the Competition Act 1998;
 - (d) the Enterprise Act 2002.

Status: This is the original version (as it was originally enacted).

- 19 A disclosure with a view to the institution of, or otherwise for the purposes of, proceedings before the Competition Appeal Tribunal.
- 20 A disclosure for the purpose of enabling or assisting an enforcer under Part 8 of the Enterprise Act 2002 to exercise its functions under that Part.
- 21 A disclosure for the purpose of enabling or assisting the Charity Commissioners to exercise their functions.
- 22 A disclosure for the purpose of enabling or assisting the Attorney General to exercise his functions in connection with charities.
- 23 A disclosure for the purpose of enabling or assisting the National Lottery Commission to exercise its functions under sections 5 to 10 and 15 of the National Lottery etc. Act 1993.
- 24 A disclosure by the National Lottery Commission to the National Audit Office for the purpose of enabling or assisting the Comptroller and Auditor General to carry out an examination under Part 2 of the National Audit Act 1983 into the economy, effectiveness and efficiency with which the National Lottery Commission has used its resources in discharging its functions under sections 5 to 10 of the National Lottery etc. Act 1993.
- 25 A disclosure for the purpose of enabling or assisting a qualifying body under the Unfair Terms in Consumer Contracts Regulations 1999 ([S.I. 1999/2083](#)) to exercise its functions under those Regulations.
- 26 A disclosure for the purpose of enabling or assisting an enforcement authority under the Consumer Protection (Distance Selling) Regulations 2000 ([S.I. 2000/2334](#)) to exercise its functions under those Regulations.
- 27 A disclosure for the purpose of enabling or assisting a local weights and measures authority in England and Wales to exercise its functions under section 230(2) of the Enterprise Act 2002.
- 28 A disclosure for the purpose of enabling or assisting the Financial Services Authority to exercise its functions under any of the following—
- (a) the legislation relating to friendly societies or to industrial and provident societies;
 - (b) the Building Societies Act 1986;
 - (c) Part 7 of the Companies Act 1989;
 - (d) the Financial Services and Markets Act 2000.
- 29 A disclosure for the purpose of enabling or assisting the competent authority for the purposes of Part 6 of the Financial Services and Markets Act 2000 to exercise its functions under that Part.
- 30 A disclosure for the purpose of enabling or assisting a body corporate established in accordance with section 212(1) of the Financial Services and Markets Act 2000 (compensation scheme manager) to exercise its functions.
- 31 (1) A disclosure for the purpose of enabling or assisting a recognised investment exchange or a recognised clearing house to exercise its functions as such.

Status: This is the original version (as it was originally enacted).

- (2) Recognised investment exchange and recognised clearing house have the same meaning as in section 285 of the Financial Services and Markets Act 2000.
- 32 A disclosure for the purpose of enabling or assisting a body designated under section 326(1) of the Financial Services and Markets Act 2000 (designated professional bodies) to exercise its functions in its capacity as a body designated under that section.
- 33 A disclosure with a view to the institution of, or otherwise for the purposes of, civil proceedings arising under or by virtue of the Financial Services and Markets Act 2000.
- 34 A disclosure for the purpose of enabling or assisting a body designated by order under section 46 of the Companies Act 1989 (delegation of functions of Secretary of State) to exercise its functions under Part 2 of that Act.
- 35 A disclosure for the purpose of enabling or assisting a recognised supervisory or qualifying body (within the meaning of Part 2 of the Companies Act 1989) to exercise its functions as such.
- 36 A disclosure for the purpose of enabling or assisting an official receiver (including the Accountant in Bankruptcy in Scotland and the Official Assignee in Northern Ireland) to exercise his functions under the enactments relating to insolvency.
- 37 A disclosure for the purpose of enabling or assisting the Insolvency Practitioners Tribunal to exercise its functions under the Insolvency Act 1986.
- 38 A disclosure for the purpose of enabling or assisting a body which is for the time being a recognised professional body for the purposes of section 391 of the Insolvency Act 1986 (recognised professional bodies) to exercise its functions as such.
- 39 (1) A disclosure for the purpose of enabling or assisting an overseas regulatory authority to exercise its regulatory functions.
- (2) Overseas regulatory authority and regulatory functions have the same meaning as in section 82 of the Companies Act 1989.
- 40 A disclosure for the purpose of enabling or assisting the Regulator of Community Interest Companies to exercise functions under the Companies (Audit, Investigations and Community Enterprise) Act 2004.
- 41 A disclosure with a view to the institution of, or otherwise for the purposes of, criminal proceedings.
- 42 A disclosure with a view to the institution of, or otherwise for the purposes of, proceedings on an application under section 6, 7 or 8 of the Company Directors Disqualification Act 1986.
- 43 A disclosure with a view to the institution of, or otherwise for the purposes of, proceedings before the Financial Services and Markets Tribunal.
- 44 A disclosure for the purposes of proceedings before the Financial Services Tribunal by virtue of the Financial Services and Markets Act

Status: This is the original version (as it was originally enacted).

2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001 (S.I. 2001/3592).

45 A disclosure for the purpose of enabling or assisting a body appointed under section 14 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (supervision of periodic accounts and reports of issuers of listed securities) to exercise functions mentioned in subsection (2) of that section.

46 A disclosure with a view to the institution of, or otherwise for the purposes of, disciplinary proceedings relating to the performance by a solicitor, barrister, auditor, accountant, valuer or actuary of his professional duties.

47 (1) A disclosure with a view to the institution of, or otherwise for the purposes of, disciplinary proceedings relating to the performance by a public servant of his duties.

(2) Public servant means an officer or employee of the Crown or of any public or other authority for the time being designated for the purposes of this paragraph by the Secretary of State by order.

(3) An order under sub-paragraph (2) must be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

48 A disclosure for the purpose of the provision of a summary or collection of information framed in such a way as not to enable the identity of any person to whom the information relates to be ascertained.

49 A disclosure in pursuance of any Community obligation.”

26 (1) Schedule 24 (punishment of offences) is amended as follows.

(2) For the entry for section 449(2) substitute—

“449(6)	Wrongful disclosure of information to which section 449 applies.	1. On indictment 2. Summary	2 years, or a fine; — or both. 12 months, or the statutory maximum; or both.”.
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(3) For the entry for section 451 substitute—

“451	Providing false information in purported compliance with section 447.	1. On indictment 2. Summary	2 years, or a fine; — or both. 12 months, or the statutory maximum; or both.”.
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(4) After the entry for section 451 insert—

Status: This is the original version (as it was originally enacted).

“453A(5)	Intentionally obstructing a person lawfully acting under section 453A(2) or (4).	1. On indictment 2. Summary	A fine. The statutory maximum.”.	—
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Insolvency Act 1986 (c. 45)

- 27 In section 124A(1)(a) of the Insolvency Act 1986 (petition for winding up on grounds of public interest), after “Part XIV” insert “(except section 448A)”.

Company Directors Disqualification Act 1986 (c. 46)

- 28 In section 8(1A)(b)(i) of the Company Directors Disqualification Act 1986 (disqualification after investigation of a company), for “or 448” substitute “, 448 or 453A”.

Companies Act 1989 (c. 40)

- 29 In the table in section 87(4) of the Companies Act 1989 (exceptions from restrictions on disclosure), after the entry relating to the Accountant in Bankruptcy insert—

“The Regulator of Community Interest Companies.	Functions under the Companies (Audit, Investigations and Community Enterprise) Act 2004.”
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Criminal Justice and Police Act 2001 (c. 16)

- 30 In paragraph 17 of Schedule 2 to the Criminal Justice and Police Act 2001 (amendments of sections 434 and 447 of the Companies Act 1985), for “sections 434(6) and 447(9)” substitute “section 434(6)”.

Anti-terrorism, Crime and Security Act 2001 (c. 24)

- 31 In paragraph 24 of Schedule 4 to the Anti-terrorism, Crime and Security Act 2001 (enactments to which section 17 of that Act applies), for “449(1)” substitute “449”.

SCHEDULE 3

Section 27

REGULATOR OF COMMUNITY INTEREST COMPANIES

Regulator’s terms of appointment

- 1 (1) The period for which a person is appointed as Regulator must not exceed five years.
(2) A person who has held office as Regulator may be re-appointed, once only, for a further period not exceeding five years.

Status: This is the original version (as it was originally enacted).

- (3) The Regulator may at any time resign the office by giving notice in writing to the Secretary of State.
- (4) The Secretary of State may at any time remove the Regulator on the ground of incapacity or misbehaviour.
- (5) Subject to that, the Regulator holds and vacates office on the terms determined by the Secretary of State.

Remuneration and pensions

- 2 (1) The Secretary of State may pay remuneration and travelling and other allowances to the Regulator.
- (2) The Secretary of State may—
 - (a) pay a pension, allowance or gratuity to or in respect of a person who is or has been the Regulator, or
 - (b) make contributions or payments towards provision for a pension, allowance or gratuity for or in respect of such a person.

Staff

- 3 (1) The Regulator may, after consulting the Minister for the Civil Service as to numbers and terms and conditions of service, appoint such staff as the Regulator may determine.
- (2) The members of staff must include a deputy to the Regulator who is to act as Regulator—
 - (a) during any vacancy in that office, or
 - (b) if the Regulator is absent, subject to suspension or unable to act.
- (3) Where a participant in a scheme under section 1 of the Superannuation Act 1972 (c. 11) is appointed as the Regulator, the Minister for the Civil Service may determine that the person's term of office as the Regulator is to be treated for the purposes of the scheme as service in the employment by reference to which he was a participant (whether or not any benefits are payable by virtue of paragraph 2(2)).
- 4 The Chief Charity Commissioner may make available to the Regulator, to assist in the exercise of the Regulator's functions, any officer or employee appointed under paragraph 2(1) of Schedule 1 to the Charities Act 1993 (c. 10).

Delegation of functions

- 5 Anything which the Regulator is authorised or required to do may be done by a member of the Regulator's staff if authorised by the Regulator (generally or specifically) for that purpose.

Finance

- 6 The Secretary of State may make payments to the Regulator.

Status: This is the original version (as it was originally enacted).

Reports and other information

- 7 (1) The Regulator must, in respect of each financial year, prepare a report on the exercise of the Regulator’s functions during the financial year.
- (2) The Regulator must prepare accounts in respect of a financial year if the Secretary of State so directs.
- (3) The Regulator must send a copy of the accounts to the Comptroller and Auditor General.
- (4) The Comptroller and Auditor General must examine, certify and report on the accounts and send a copy of the report to the Regulator.
- (5) The Regulator must include the accounts and the Comptroller and Auditor General’s report on them in the report prepared by the Regulator in respect of the financial year to which the accounts relate.
- (6) The Regulator must prepare that report as soon as possible after the end of the financial year to which it relates.
- (7) The Regulator must send to the Secretary of State a copy of—
- (a) each report prepared by the Regulator under sub-paragraph (1), and
 - (b) each report prepared by the Official Property Holder under paragraph 6 of Schedule 5.
- (8) The Secretary of State must lay before each House of Parliament a copy of each of those reports.
- (9) The Regulator must supply the Secretary of State with such other reports and information relating to the exercise of the Regulator’s functions as the Secretary of State may require.
- (10) “Financial year” means—
- (a) the period beginning with the date on which a person is first appointed as the Regulator and ending with the next 31st March, and
 - (b) each successive period of 12 months beginning with 1st April.

Amendments

- 8 In Schedule 2 to the Parliamentary Commissioner Act 1967 (c. 13) (departments and authorities subject to investigation), insert at the appropriate place—
- “Office of the Regulator of Community Interest Companies.”
- 9 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (disqualifying offices), insert at the appropriate place—
- “Regulator of Community Interest Companies.”

SCHEDULE 4

Section 28

APPEAL OFFICER FOR COMMUNITY INTEREST COMPANIES

Appeal Officer's terms of appointment

- 1 (1) The Appeal Officer holds office for the period determined by the Secretary of State on appointment (or re-appointment).
- (2) But—
 - (a) the Appeal Officer may at any time resign the office by giving notice in writing to the Secretary of State, and
 - (b) the Secretary of State may at any time remove the Appeal Officer on the ground of incapacity or misbehaviour.
- (3) Subject to that, the Appeal Officer holds and vacates office on the terms determined by the Secretary of State.

Remuneration and pensions

- 2 (1) The Secretary of State may pay remuneration and travelling and other allowances to the Appeal Officer.
- (2) The Secretary of State may—
 - (a) pay a pension, allowance or gratuity to or in respect of a person who is or has been the Appeal Officer, or
 - (b) make contributions or payments towards provision for a pension, allowance or gratuity for or in respect of such a person.

Finance

- 3 The Secretary of State may make payments to the Appeal Officer.

Procedure

- 4 (1) Regulations may make provision about the practice and procedure to be followed by the Appeal Officer.
- (2) Regulations under this paragraph may in particular impose time limits for bringing appeals.

Amendments

- 5 In Schedule 2 to the Parliamentary Commissioner Act 1967 (c. 13) (departments and authorities subject to investigation), insert at the appropriate place—

“Appeal Officer for Community Interest Companies.”
- 6 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (disqualifying offices), insert at the appropriate place—

“Appeal Officer for Community Interest Companies.”

SCHEDULE 5

Section 29

OFFICIAL PROPERTY HOLDER FOR COMMUNITY INTEREST COMPANIES

Status

- 1 (1) The Official Property Holder is a corporation sole.
- (2) A document purporting to be—
 - (a) duly executed under the seal of the Official Property Holder, or
 - (b) signed on behalf of the Official Property Holder,shall be received in evidence and shall, unless the contrary is proved, be taken to be so executed or signed.

Relationship with Regulator

- 2 The Regulator must make available to the Official Property Holder such members of the Regulator's staff as the Official Property Holder may require in order to exercise the functions of the office.

Effect of vacancy

- 3 The Regulator must appoint a member of the Regulator's staff who is to act as Official Property Holder—
 - (a) during any vacancy in the office, or
 - (b) if the Official Property Holder is absent, subject to suspension or unable to act.

Property

- 4 (1) The Official Property Holder holds property vested in or transferred to him as a trustee.
- (2) The Official Property Holder may release or deal with the property—
 - (a) to give effect to any interest in or right over the property of any person (other than the community interest company by which, or in trust for which, the property was held before it was vested or transferred), or
 - (b) at the request of a person appointed to act as administrative receiver, administrator, provisional liquidator or liquidator of the company.
- (3) Subject to sub-paragraph (2), the Official Property Holder may not release or deal with the property except in accordance with directions given by the Regulator.

Finance

- 5 (1) The Official Property Holder may recover his expenses in respect of property held by him from the property or from the community interest company by which, or in trust for which, the property was held before it was vested in or transferred to the Official Property Holder.
- (2) Any expenses of the Official Property Holder not recovered under sub-paragraph (1) are to be met by the Regulator.

Reports

- 6 (1) As soon as possible after the end of each financial year, the Official Property Holder must prepare a report on the exercise of the Official Property Holder’s functions during the financial year.
- (2) The Official Property Holder must send a copy of the report to the Regulator.
- (3) “Financial year” means—
 - (a) the period beginning with the date on which a person is first appointed as the Official Property Holder and ending with the next 31st March, and
 - (b) each successive period of 12 months beginning with 1st April.

SCHEDULE 6

Section 33

COMMUNITY INTEREST COMPANIES: NAMES

Companies Act 1985 (c. 6)

- 1 The Companies Act 1985 has effect subject to the following amendments.
- 2 (1) Section 26 (prohibition on registration of certain names) is amended as follows.
 - (2) In subsection (1)(a)—
 - (a) for “or “public limited company”” substitute “, “public limited company”, “community interest company” or “community interest public limited company””, and
 - (b) for “and “cwmni cyfyngedig cyhoeddus”” substitute “, “cwmni cyfyngedig cyhoeddus”, “cwmni buddiant cymunedol” and “cwmni buddiant cymunedol cyhoeddus cyfyngedig””.
 - (3) In subsection (3)(b), after the entry relating to “public limited company” or its Welsh equivalent insert—

““community interest company” or its Welsh equivalent (“cwmni buddiant cymunedol”);

“community interest public limited company” or its Welsh equivalent (“cwmni buddiant cymunedol cyhoeddus cyfyngedig”);”.
- 3 In section 27(4) (alternatives of statutory designations), after paragraph (d) insert—
 - (e) the alternative of “community interest company” is “c.i.c.”;
 - (f) the alternative of “cwmni buddiant cymunedol” is “c.b.c.”;
 - (g) the alternative of “community interest public limited company” is “community interest p.l.c.”; and
 - (h) the alternative of “cwmni buddiant cymunedol cyhoeddus cyfyngedig” is “cwmni buddiant cymunedol c.c.c.”.
- 4 In section 30(7) (further exemptions for company exempt from using “limited” as part of its name), after “which” insert “under this section”.
- 5 In section 33(1) (person who is not a public company prohibited from trading under a name ending with the words “public limited company” or their equivalent in Welsh), insert at the end “; and a community interest company which is not a public company

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is guilty of an offence if it does so under a name which includes, as its last part, the words “cwmni buddiant cymunedol cyhoeddus cyfyngedig”.

6 After section 34 insert—

“34A Penalty for improper use of “community interest company” etc.

(1) A company which is not a community interest company is guilty of an offence if it carries on any trade, profession or business under a name which includes any of the expressions specified in subsection (3).

(2) A person other than a company is guilty of an offence if it carries on any trade, profession or business under a name which includes any of those expressions (or any contraction of them) as its last part.

(3) The expressions are—

- (a) “community interest company” or its Welsh equivalent (“cwmni buddiant cymunedol”), and
- (b) “community interest public limited company” or its Welsh equivalent (“cwmni buddiant cymunedol cyhoeddus cyfyngedig”).

(4) Subsections (1) and (2) do not apply—

- (a) to a person who was carrying on a trade, profession or business under the name in question at any time during the period beginning with 1st September 2003 and ending with 4th December 2003, or
- (b) if the name in question was on 4th December 2003 a registered trade mark or Community trade mark (within the meaning of the Trade Marks Act 1994 (c. 26)), to a person who was on that date a proprietor or licensee of that trade mark.

(5) A person guilty of an offence under subsection (1) or (2) and, if that person is a company, any officer of the company who is in default, is liable to a fine and, for continued contravention, to a daily default fine.”

7 In section 43(2)(b) (re-registration of private company as public: alteration of name), after “section 25(1)” insert “, or section 33 of the Companies (Audit, Investigations and Community Enterprise) Act 2004,”.

8 In section 351(1)(d) (particulars in correspondence to indicate that a company exempt from obligation to use “limited” as part of name is limited company), after “name” insert “under section 30 or a community interest company which is not a public company”.

9 (1) Schedule 24 (punishment of offences) is amended as follows.

(2) In the second column of the entry relating to section 33, after “equivalent” insert “etc.”.

(3) After the entry relating to section 34 insert—

“34A	Trading with improper use of “community interest company” etc.	Summary	Level 3 on the standard scale	One-tenth of level 3 on the standard scale.”
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Limited Liability Partnerships Act 2000 (c. 12)

- 10 In paragraph 8(2) of the Schedule to the Limited Liability Partnerships Act 2000 (similarity of names), after the entry relating to “public limited company” insert—
- ““community interest company”,
- “community interest public limited company”,”.

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.

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

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- (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.

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).

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.

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—

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- (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”.

SCHEDULE 8

Section 64

REPEALS AND REVOCATIONS

<i>Title and reference</i>	<i>Extent of repeal or revocation</i>
Companies Act 1985 (c. 6)	<p>In section 27(4), the word “and” at the end of paragraph (c).</p> <p>Section 245C(6).</p> <p>Section 256(3).</p> <p>In section 310, in subsection (1) the words “any officer of the company or”, and in subsection (3) the words “officer or” (in both places) and the words from “section 144(3)” to “nominee) or”.</p> <p>Section 390A(3).</p> <p>In section 734(1), the words “section 389A(3) or”.</p> <p>In Schedule 4A, in paragraph 1(1), the words “section 390A(3) (amount of auditors' remuneration) and”.</p> <p>In Schedule 24, the entry relating to section 447(6).</p>
Insolvency Act 1985 (c. 65)	<p>In Schedule 6, paragraph 4.</p>
Insolvency Act 1986 (c. 45)	<p>In Schedule 13, in Part 1, the entry relating to section 449(1) of the Companies Act 1985.</p>
Companies Act 1989 (c. 40)	<p>Section 48(3).</p> <p>Section 63.</p> <p>Section 65.</p> <p>Section 67.</p> <p>Section 69(2) and (4).</p>

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<i>Title and reference</i>	<i>Extent of repeal or revocation</i>
	Section 120(2) and (3).
Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5))	Article 48(2)(a). Article 49. In Article 56, the entry relating to “Director (in Schedule 14)”. Schedule 14.
Friendly Societies Act 1992 (c. 40)	In Schedule 21, paragraph 7.
Pensions Act 1995 (c. 26)	In Schedule 3, paragraph 12.
Bank of England Act 1998 (c. 11)	In Schedule 5, paragraph 62.
Competition Act 1998 (c. 41)	In Schedule 2, paragraph 3.
Youth Justice and Criminal Evidence Act 1999 (c. 23)	In Schedule 3, paragraph 6.
Competition Act 1998 (Competition Commission) Transitional, Consequential and Supplemental Provisions Order 1999 (S.I. 1999/506)	Article 41.
Enterprise Act 2002 (c. 40)	In Schedule 25, paragraph 22.