

COMPANIES ACT 2006

EXPLANATORY NOTES

COMMENTARY

Part 15: Accounts and Reports

Chapter 12: Supplementary Provisions

Section 463: Liability for false or misleading statements in reports

708. This section is concerned with the extent of directors' liability in relation to the statutory narrative reporting requirements under this Part of the Act (accounts and reports). *Subsection (1)* specifies that the liability provision applies to statements made in the directors' report (which includes the business review under section 417), the directors' remuneration report (under section 420) or summary financial statements derived from them. *Subsection (2)* limits the directors' liability to the company only in respect of loss suffered by it as a result of any untrue or misleading statement in a report, or the omission from a report of anything required to be included. *Subsection (3)* specifies that a director will only be liable in certain circumstances – that is, if an untrue or misleading statement is made deliberately or recklessly, or an omission amounts to dishonest concealment of a material fact. *Subsection (4)* ensures that third parties, such as auditors, will remain liable only to the company for negligence in preparing their own report. *Subsection (6)* ensures that these liability provisions do not affect any liability for a civil penalty or for a criminal offence.

Section 464: Accounting standards

709. This section re-enacts section 256 of the 1985 Act.

Sections 465 to 467: Companies qualifying as medium-sized

710. Medium-sized companies benefit from certain limited accounting and reporting exemptions. For example, section 417(7) exempts medium-sized companies from disclosing certain non-financial information in their directors' reports.

711. **Sections 465 to 467** set out which companies or parent companies qualify as medium-sized. The conditions for qualification as a medium sized company have been separated from those relating to small companies to make them easier to follow but are otherwise unchanged from the current regime (sections 247, 247A and 249 of the 1985 Act), save that, as in the case of the definition of small companies, the definition of balance sheet total in section 465(5) has been generalised.

Section 468: General power to make further provision about accounts and reports

712. This section gives the Secretary of State a general power to amend Part 15 by regulations in the areas specified in *subsection (1)(a) to (d)*. This power, together with a number of specific powers in Part 15 to enable the form and contents of accounts and reports to be prescribed by regulations, replaces the wider general power in section 257 of the 1985 Act. *Subsection (3)* provides that the general power may not be used to amend the

provisions of section 393 (accounts to give true and fair view) or Chapter 11 (revision of defective accounts and reports) other than consequentially. *Subsections (4) and (5)* enable regulations under the section to create criminal offences or provide for civil penalties in circumstances corresponding to those in Part 15. The regulations are subject to the Parliamentary procedure in section 473.

Section 469: Preparation and filing of accounts in euros

713. This section re-enacts section 242B of the 1985 Act, replacing references to ECUs with references to euros. It enables companies to show the amounts in their annual accounts additionally in euros, and to deliver to the registrar an additional copy of their accounts translated into euros.

Section 470: Power to apply provisions to banking partnerships

714. This section re-enacts section 255D of the 1985 Act. It gives the Secretary of State the power to apply the accounting and reporting provisions of this Act that apply to banking companies to banking partnerships. As under the current law, the regulations are subject to the affirmative resolution procedure.

Section 471: Meaning of “annual accounts” and related expressions

715. This section provides definitions of the terms “annual accounts” and “annual accounts and reports” for the purpose of this Part, the meaning being different for unquoted and quoted companies.

Section 472: Notes to the accounts

716. This section re-enacts section 261 of the 1985 Act. It concerns the notes to a company’s accounts.

Section 473: Parliamentary procedure for certain regulations under this Part

717. This section specifies the Parliamentary procedure that must be followed in connection with regulations made under the various provisions of this Part which replace the requirements as to the form and content of accounts and reports currently contained in Schedules to Part 7 of the 1985 Act, and in relation to the general regulation-making power in section 468. This section follows section 257 of the 1985 Act in requiring affirmative resolution procedure for regulations which add to the documents required to be prepared by companies, restrict the exemptions available to particular classes or types of company, add to the information to be included in any particular document or otherwise make the requirements more onerous. Other regulations are subject to negative resolution procedure.

Section 474: Minor definitions

718. This section contains other definitions for the purposes of this Part.