These notes refer to the Companies Act 2006 (c.46)
which received Royal Assent on 8 November 2006

COMPANIES ACT 2006

EXPLANATORY NOTES

COMMENTARY

Part 16: Audit

Chapter 1: Requirement for Audited Accounts

Sections 482 and 483: Companies subject to public sector audit

728. These two sections, the only wholly new provisions in this Chapter, are intended to ensure that certain non-commercial, public sector bodies constituted as companies that are audited by a public sector auditor are not required to be audited under the Act.

729. Section 482 exempts from Companies Act audit any non-departmental public body that is a company and is non-profit-making, if it is subject to public sector audit.

730. A UK body may be subject to public sector audit by virtue of an order under the Government Resources and Accounts Act 2000 The body in question will then be audited by the National Audit Office on behalf of the UK Comptroller and Auditor General. Under the Audit and Accountability (Northern Ireland) Order 2003, an order can make a body subject to audit by the Comptroller and Auditor General for Northern Ireland. Alternatively, a body may be subject to audit by the Auditor General for Wales under section 96 of the Government of Wales Act 1998, or an order under section 144 of that Act.

731. Some Scottish bodies are subject to public sector audit by the Auditor General for Scotland (AGS) under the Public Finance and Accountability (Scotland) Act 2000.

732. The companies exempted by this section are not subject to the Fourth Company Law Directive: the Directive is based on Article 44(2)(g) of the EC Treaty (formerly 54(3)(g) of the EEC Treaty), and Article 48 of the Treaty excludes from the scope of Article 44 undertakings that are non-profit-making. That is why *subsection (3)* gives "non-profit-making" the same meaning as in the Treaty.

733. *Subsection (2)* provides that a group company can benefit from this exemption only if every company in the group is non-profit-making. The effect of s*ubsection (4)* is that the exemption is not available unless the balance sheet contains a statement that the company is entitled to it.

734. Section 483 confers a new power on Scottish Ministers to provide that a company should have its accounts audited by the Auditor General for Scotland (AGS). This is available for companies depending on their functions or their funding. The Scottish Ministers can designate a company under this power if its functions are public functions that are all covered by the Scottish Parliament's responsibilities, or if the company receives all or most of its funding from a public body already audited by the AGS. In the latter case, the funding body may be audited by the AGS because it is covered by the Public Finance and Accountability (Scotland) Act 2000, or because it is itself a

company that Scottish Ministers have made auditable by the AGS by a previous order under this section.

735. If an order is made under this section providing that a company should have a public sector audit by the AGS, and if that company is non-profit-making, then it will benefit from the exemption from audit in the preceding section.