

COMPANIES ACT 2006

EXPLANATORY NOTES

COMMENTARY

Part 16: Audit

Chapter 4: Removal, Resignation, Etc of Auditors

Section 515: Failure to re-appoint auditor: special notice required for resolution at general meeting

785. This section sets out the procedure for changing auditor between one financial year and the next at a general meeting. This may be done by resolution at the meeting, but special notice is required if no deadline for appointing auditors has passed since the outgoing auditor left, or if the deadline has passed when an auditor should have been appointed without one being appointed. So, for example, if a public company intends not to re-appoint an auditor at its accounts meeting, it would need to give special notice of the meeting to be able to appoint replacement auditors.
786. *Subsection (3)* provides that immediately it receives a proposed resolution for changing auditor, the company should send a copy of it both to the outgoing auditor and to his proposed replacement; and *subsection (4)* provides that the former may then send the company a written statement setting out his views. *Subsections (5) and (6)* provide that the company must send its shareholders any statement from the outgoing auditor, and that if it is received too late for this it should be read out at the meeting.
787. *Subsection (7)* provides protection if the outgoing auditor is using the provision to have a statement circulated to secure needless publicity for defamatory material. It enables the company, or anyone else who is aggrieved by the statement, to apply to the court, and the court can then determine whether the auditor is using the provision in that way, in which case the company is not obliged to circulate the auditor's representations, nor need they be read out at the meeting. The court can order the auditor to pay some or all of the costs of the proceedings.