



# Co-operative and Community Benefit Societies Act 2014

## 2014 CHAPTER 14

### PART 7

#### ACCOUNTS, AUDIT AND ANNUAL RETURNS

##### *Auditors*

#### **91 Meaning of “qualified auditor”**

In this Part “qualified auditor” means a person eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006.

#### **92 Persons ineligible for appointment as auditors etc**

- (1) This section applies to an appointment by a registered society of a person—
  - (a) as auditor of the society,
  - (b) for the purposes of making a report of a kind mentioned in row 5 or 6 of the table in section 82 (report on interim revenue account or balance sheet), or
  - (c) under section 85 (duty to obtain report in certain cases where section 83 disapplied).
- (2) None of the following may be appointed—
  - (a) an officer or employee of the society or any connected registered society;
  - (b) an employee, employer or partner of a person within paragraph (a);
  - (c) a person prohibited by section 1214 of the Companies Act 2006 (independence requirement) from acting as statutory auditor of a company that is a subsidiary of the society.
- (3) For this purpose, a society is “connected with” another society if—
  - (a) one of them is a subsidiary of the other, or

- (b) they are both subsidiaries of another registered society.
- (4) An appointment made in contravention of this section is ineffective for the purposes of this Part.
- (5) For the purposes of subsection (2), a society’s auditor is not to be regarded as an employee of the society (and the auditor is not an “officer” - see section 149).

### **93 Re-appointment and removal of qualified auditors**

- (1) A qualified auditor appointed to audit a registered society’s accounts and balance sheet for the preceding year of account (“the existing auditor”) is re-appointed as the society’s auditor for the current year of account.

This is subject to the following provisions of this section.

- (2) The existing auditor is not re-appointed if a resolution is passed at a general meeting of the society—
  - (a) appointing another person instead of the existing auditor,
  - (b) providing expressly that the existing auditor is not to be re-appointed, or
  - (c) disapplying section 83 (duty to appoint auditors) in relation to the current year of account.
- (3) The existing auditor is not re-appointed if the auditor—
  - (a) has given the society notice in writing of the auditor’s unwillingness to be appointed,
  - (b) is ineligible for appointment for the current year of account (see subsection (5)), or
  - (c) has ceased to act as the society’s auditor by reason of incapacity.
- (4) The existing auditor is not automatically re-appointed by virtue of subsection (1) if—
  - (a) notice is given of a resolution to appoint a person in place of the existing auditor, and
  - (b) the resolution cannot be proceeded with at the meeting—
    - (i) because of the death or incapacity of the person, or
    - (ii) because the person is ineligible for appointment for the current year of account.
- (5) For the purposes of this section a person is ineligible for appointment for the current year of account if—
  - (a) the person’s appointment in relation to the society is prohibited by section 92, or
  - (b) the person is not a qualified auditor at the time when the question of the person’s appointment falls to be considered, and the society is not a small society in respect of that year.

### **94 Resolutions relating to appointment or removal of auditors**

- (1) This section applies to a resolution at a general meeting of a registered society—
  - (a) appointing another person as auditor in place of the existing auditor, or
  - (b) providing expressly that the existing auditor is not to be re-appointed.

“The existing auditor” has the same meaning as in section 93.

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- (2) The resolution is effective only if notice of the intention to move it is given to the society at least 28 days before the meeting.
- (3) Where notice under subsection (2) is given—
  - (a) the society must send a copy of the notice to the existing auditor as soon as possible,
  - (b) if the society is required by its rules to give notice of the meeting to its members, it must (if it is practicable to do so) give them notice of the resolution at the same time and in the same way as it gives notice of the meeting, and
  - (c) if the society does not give notice under paragraph (b), it must give its members notice of the resolution at least 14 days before the meeting by—
    - (i) advertisement in a newspaper having an appropriate circulation, or
    - (ii) in any other way allowed by the society's rules.
- (4) Where—
  - (a) section 93(4) applies in relation to the resolution (resolution to appoint a person in place of the existing auditor cannot be proceeded with), and
  - (b) the society's rules provide that an auditor can be appointed by a resolution passed at a general meeting only if the society is given notice of the intended resolution before the meeting,a resolution passed at the meeting re-appointing the existing auditor or appointing an auditor in place of that auditor is effective even though notice of the resolution has not been given.
- (5) Any provision of this section which requires notice to be given to the society's members or confers any right upon a member is to be read, in the case of a meeting of delegates appointed by members, as requiring the notice to be given to the delegates or conferring the right upon a delegate.

## **95 Resolutions relating to auditors: auditors' representations**

- (1) This section applies where a registered society has given notice of a resolution to which section 94 (resolutions relating to auditors) applies to the existing auditor (within the meaning of that section).
- (2) The auditor may—
  - (a) at any time before the date of the general meeting, make representations in writing to the society (not exceeding a reasonable length) with respect to the intended resolution;
  - (b) notify the society that the auditor intends to make such representations;
  - (c) request that the society's members are given notice of—
    - (i) the auditor's intention to make representations, or
    - (ii) any representations made by the auditor and received by the society before notice of the intended resolution is given to its members.
- (3) Where the society receives representations or a notification of intended representations before the date when notice of the intended resolution is required by section 94(3) to be given to its members, the society must—
  - (a) in any notice of the resolution given to members, state—
    - (i) that it has received the representations or notification, and

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- (ii) that a copy of any representations received by the society before the date of the general meeting will be given to any member who makes a request for them before that date, and
- (b) send a copy of any such representations to any member who makes such a request.

See section 96 for provisions about providing a copy of the representations by placing them on a website.

- (4) The auditor may require any representations made by the auditor before the date of the general meeting to be read out at the meeting.

This does not affect the auditor’s right to be heard orally.

- (5) But if, on the application of the society or any other person, the appropriate court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter—

- (a) copies of the representations need not be sent out, and
- (b) the representations need not be read out at the meeting.

- (6) The appropriate court may order the auditor to pay all or part of the society’s costs (or, in Scotland, expenses) on an application under this section, even if the auditor is not a party to the application.

- (7) The “appropriate court” means—

- (a) if the society’s registered office is in Scotland, the Court of Session;
- (b) otherwise, the High Court.

- (8) Any provision of this section which requires notice to be given to the society’s members or confers any right upon a member is to be read, in the case of a meeting of delegates appointed by members, as requiring the notice to be given to the delegates or conferring the right upon a delegate.

**96 Section 95: provision of auditor’s representations by making available on website**

- (1) This section applies where a society is required by section 95(3)(b) to send a person a copy of the representations referred to there.
- (2) The society is regarded as sending the person a copy of a document containing the representations if the following conditions are met—
- (a) the person has agreed (generally or specifically) that the society may make the document available to the person on a website (and has not revoked that agreement);
  - (b) the society has notified the person of the following—
    - (i) the website address;
    - (ii) the presence of the document on the website;
    - (iii) the place on the website where the document may be accessed;
    - (iv) how to access it;
  - (c) the document is present on the website for the whole of the period—
    - (i) beginning when the notification is sent (or, if later, when the document first appears on the website), and

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- (ii) ending 28 days after the day the notification is sent (or, if later, the day the document first appears on the website).
- (3) If the document is absent from the website for part of the period referred to in subsection (2)(c), the absence is to be disregarded if it is wholly attributable to circumstances that it would not be reasonable to have expected the society to prevent or avoid.

## **97 Remuneration of qualified auditors**

- (1) The Treasury may by regulations prescribe the maximum rates of remuneration to be paid by registered societies for—
  - (a) the audit of their accounts and balance sheets by qualified auditors;
  - (b) the making of a report (a “relevant report”) for the purposes of—
    - (i) row 5 or 6 of the table in section 82, or
    - (ii) section 85(2)(a) or (b) (duty to obtain report in certain cases where section 83 disapplied).
- (2) The regulations may make different provision for different cases or circumstances.
- (3) An auditor or person appointed to make a relevant report—
  - (a) must not ask for or receive, and
  - (b) is not entitled to receive,remuneration in excess of the rate prescribed by the regulations in respect of the auditor’s or person’s service.