
STATUTORY INSTRUMENTS

2008 No. 1911

**The Limited Liability Partnerships (Accounts and Audit)
(Application of Companies Act 2006) Regulations 2008**

PART 11

APPOINTMENT OF AUDITORS

Appointment of auditors

36. Sections 485 to 488 apply to LLPs, modified so that they read as follows—

“485 Appointment of auditors: general

(1) An auditor or auditors of an LLP must be appointed for each financial year of the LLP, unless the designated members reasonably determine otherwise on the ground that audited accounts are unlikely to be required.

(2) For each financial year for which an auditor or auditors is or are to be appointed (other than the LLP's first financial year), the appointment must be made before the end of the period of 28 days beginning with—

- (a) the end of the time allowed for sending out copies of the LLP's [^{F1}annual accounts and reports] for the previous financial year (see section 423), or
- (b) if earlier, the day on which copies of the LLP's [^{F1}annual accounts and reports] for the previous financial year are sent out under section 423.

This is the “period for appointing auditors”.

- (3) The designated members may appoint an auditor or auditors—
 - (a) at any time before the LLP's first period for appointing auditors,
 - (b) following a period during which the LLP (being exempt from audit) did not have any auditor, at any time before the LLP's next period for appointing auditors, or
 - (c) to fill a casual vacancy in the office of auditor.
- (4) The members may appoint an auditor or auditors—
 - (a) during a period for appointing auditors,
 - (b) if the LLP should have appointed an auditor or auditors during a period for appointing auditors but failed to do so, or
 - (c) where the designated members had power to appoint under subsection (3) but have failed to make an appointment.
- (5) An auditor or auditors of an LLP may only be appointed—
 - (a) in accordance with this section, or
 - (b) in accordance with section 486 [^{F2}or section 486A] (default power of Secretary of State).

This is without prejudice to any deemed re-appointment under section 487.

[F3] Appointment of auditors: additional requirements for public interest entities with audit committees

(1) This section applies to the appointment under section 485(4) of an auditor or auditors of an LLP—

- (a) which is also a public interest entity; and
- (b) which has an audit committee.

(2) But it does not apply to the appointment of an Auditor General as auditor or one of the auditors of the LLP.

(3) Before an appointment to which this section applies is made—

- (a) the audit committee of the LLP must make a recommendation to the designated members in connection with the appointment, and
- (b) the designated members must propose an auditor or auditors for appointment.

(4) Before the audit committee makes a recommendation or the designated members make a proposal under subsection (3), the committee must carry out a selection procedure in accordance with Article 16(3) of the Audit Regulation.

(5) The audit committee must in its recommendation—

- (a) identify its first and second choice candidates for appointment, drawn from those auditors who have participated in a selection procedure under subsection (4),
- (b) give reasons for the choices so identified,
- (c) state that—
 - (i) the recommendation is free from influence by a third party, and
 - (ii) no contractual term of the kind mentioned in Article 16(6) of the Audit Regulation has been imposed on the LLP.

(6) The designated members must include in their proposal—

- (a) the recommendation made by the audit committee in connection with the appointment, and
- (b) if the proposal of the designated members departs from the preference of the audit committee—
 - (i) a recommendation for a candidate or candidates for appointment drawn from those auditors who have participated in a selection procedure under subsection (4), and
 - (ii) the reasons for not following the audit committee's recommendation.

(7) Where the audit committee recommends re-appointment of the LLP's existing auditor or auditors, and the designated members are in agreement, subsections (4) and (5)(a) and (b) do not apply.

Appointment of auditors: additional requirements for public interest entities without audit committees

(1) This section applies to the appointment under section 485(4) of an auditor or auditors of an LLP—

- (a) which is also a public interest entity; and
- (b) which does not have an audit committee.

(2) But it does not apply to the appointment of an Auditor General as auditor or one of the auditors of the LLP.

(3) Before an appointment to which this section applies is made the designated members must propose an auditor or auditors for appointment.

(4) Before the designated members make a proposal under subsection (3), they must carry out a selection procedure in accordance with Article 16(3) of the Audit Regulation, from which their proposed auditor or auditors must be drawn.

(5) Subsection (4) does not apply in relation to a proposal to re-appoint the LLP's existing auditor or auditors.

Restriction on appointment of auditor of LLP which is a public interest entity

(1) A person who has been, or will have been, auditor of an LLP which is a public interest entity for every financial year comprised in the maximum engagement period (see section 494ZA) may not be appointed as auditor of the LLP for any financial year which begins within the period of 4 years beginning with the day after the last day of the last financial year of the maximum engagement period.

(2) A person who is a member of the same network as the auditor mentioned in subsection (1) may not be appointed as auditor of the LLP for any financial year which begins within the period of 4 years mentioned in that subsection.

(3) This section does not apply in relation to an Auditor General.]

486 Appointment of auditor: default power of Secretary of State

(1) If an LLP fails to appoint an auditor or auditors in accordance with section 485, the Secretary of State may appoint one or more persons to fill the vacancy.

(2) Where subsection (2) of that section applies and the LLP fails to make the necessary appointment before the end of the period for appointing auditors, the LLP must within one week of the end of that period give notice to the Secretary of State of his power having become exercisable.

(3) If an LLP fails to give the notice required by this section, an offence is committed by—

- (a) the LLP, and
- (b) every designated member who is in default.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

[^{F4}Defective appointments: default power of Secretary of State

(1) If—

- (a) an LLP appoints, or purports to appoint, an auditor or auditors, and
- (b) the appointment or purported appointment is made in breach of section 485A, 485B or 485C (requirements applying to appointment of auditors by public interest entities),

the Secretary of State may appoint another auditor or auditors in place of the auditor or auditors referred to in paragraph (a).

(2) The breach of section 485A, 485B or 485C does not invalidate any report made under Chapter 3 of this Part by the auditor or auditors on the LLP's annual reports or accounts before the auditor or auditors are replaced under subsection (1) of this section.

(3) But where the breach in question is a breach of section 485C, sections 1248 and 1249 (Secretary of State's power to require second audit for companies) apply as if—

- (a) the LLP was a company;
- (b) the auditor was not an appropriate person, or the auditors were not appropriate persons, for the period during which the audit was conducted.

(4) Within one week of becoming aware of the breach of section 485A, 485B or 485C, the LLP must give notice to the Secretary of State that the power under subsection (1) of this section has become exercisable.

(5) If the LLP fails to give the notice required by subsection (4), an offence is committed by—

- (a) the LLP, and
- (b) every member of the LLP who is in default.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.]

487 Term of office of auditors

(1) An auditor or auditors of an LLP hold office in accordance with the terms of their appointment, subject to the requirements that—

- (a) they do not take office until any previous auditor or auditors cease to hold office, and
- (b) they cease to hold office at the end of the next period for appointing auditors unless re-appointed.

(2) Where no auditor has been appointed by the end of the next period for appointing auditors, any auditor in office immediately before that time is deemed to be re-appointed at that time, unless—

- (a) the LLP agreement requires actual re-appointment, or
- (b) the deemed re-appointment is prevented by the members under section 488, or
- (c) the members have determined that he should not be re-appointed, or
- (d) the designated members have determined that no auditor or auditors should be appointed for the financial year in question^{F5}, or
- (e) the auditor's appointment would be in breach of section 485C.]

(3) This is without prejudice to the provisions of this Part as to removal and resignation of auditors.

(4) No account shall be taken of any loss of the opportunity of deemed reappointment under this section in ascertaining the amount of any compensation or damages payable to an auditor on his ceasing to hold office for any reason.

488 Prevention by members of deemed re-appointment of auditor

(1) An auditor of an LLP is not deemed to be re-appointed under section 487(2) if the LLP has received notices under this section from members representing at least the requisite percentage of the total voting rights in the LLP that the auditor should not be re-appointed.

- (2) The “requisite percentage” is 5%, or such lower percentage as is specified for this purpose in the LLP agreement.
- (3) A notice under this section—
- (a) may be in hard copy or electronic form,
 - (b) must be authenticated by the person or persons giving it, and
 - (c) must be received by the LLP before the end of the accounting reference period immediately preceding the time when the deemed reappointment would have effect.”

Textual Amendments

- F1** Words in [reg. 36](#) substituted (with effect for financial years beginning on or after 6.4.2021) by [The European Grouping of Territorial Cooperation and Limited Liability Partnerships etc. \(Revocations and Amendments\) \(EU Exit\) Regulations 2021 \(S.I. 2021/153\)](#), [regs. 1, 18](#)
- F2** Words in [reg. 36](#) inserted (with effect in accordance with [reg. 2\(5\)\(a\)](#) of the amending S.I.) by [The Statutory Auditors Regulations 2017 \(S.I. 2017/1164\)](#), [reg. 1\(2\)\(3\)](#), [Sch. 3 para. 11\(a\)](#) (with [reg. 2\(6\)\(7\)](#))
- F3** Words in [reg. 36](#) inserted (with effect in accordance with [reg. 2\(5\)\(a\)](#) of the amending S.I.) by [The Statutory Auditors Regulations 2017 \(S.I. 2017/1164\)](#), [reg. 1\(2\)\(3\)](#), [Sch. 3 para. 11\(b\)](#) (with [reg. 2\(6\)\(7\)](#))
- F4** Words in [reg. 36](#) inserted (with effect in accordance with [reg. 2\(5\)\(a\)](#) of the amending S.I.) by [The Statutory Auditors Regulations 2017 \(S.I. 2017/1164\)](#), [reg. 1\(2\)\(3\)](#), [Sch. 3 para. 11\(c\)](#) (with [reg. 2\(6\)\(7\)](#))
- F5** Words in [reg. 36](#) inserted (with effect in accordance with [reg. 2\(5\)\(a\)](#) of the amending S.I.) by [The Statutory Auditors Regulations 2017 \(S.I. 2017/1164\)](#), [reg. 1\(2\)\(3\)](#), [Sch. 3 para. 11\(d\)](#) (with [reg. 2\(6\)\(7\)](#))

Changes to legislation:

There are currently no known outstanding effects for the The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008, Section 36.