

## COMPANIES ACT 2006

ss 441, 442, 443, 444, 445, 446, 447, 451, 453<sup>1</sup>

### CHAPTER 10 FILING OF ACCOUNTS AND REPORTS

#### *Duty to file accounts and reports*

#### **441 Duty to file accounts and reports with the registrar**

(1) The directors of a company must deliver to the registrar for each financial year the accounts and reports required by—

- section 444 (filing obligations of companies subject to small companies regime),
- section 445 (filing obligations of medium-sized companies),
- section 446 (filing obligations of unquoted companies), or
- section 447 (filing obligations of quoted companies).

(2) This is subject to section 448 (unlimited companies exempt from filing obligations).

#### **442 Period allowed for filing accounts**

(1) This section specifies the period allowed for the directors of a company to comply with their obligation under section 441 to deliver accounts and reports for a financial year to the registrar.

This is referred to in the Companies Acts as the “period for filing” those accounts and reports.

(2) The period is—

(a) for a private company, nine months after the end of the relevant accounting reference period, and

(b) for a public company, six months after the end of that period.

This is subject to the following provisions of this section.

(3) If the relevant accounting reference period is the company's first and is a period of more than twelve months, the period is—

(a) nine months or six months, as the case may be, from the first anniversary of the incorporation of the company, or

(b) three months after the end of the accounting reference period, whichever last expires.

(4) If the relevant accounting reference period is treated as shortened by virtue of a notice given by the company under section 392 (alteration of accounting reference date), the period is—

(a) that applicable in accordance with the above provisions, or

(b) three months from the date of the notice under that section, whichever last expires.

(5) If for any special reason the Secretary of State thinks fit he may, on an application made before the expiry of the period otherwise allowed, by notice in writing to a company extend that period by such further period as may be specified in the notice.

(6) Whether the period allowed is that for a private company or a public company is determined by reference to the company's status immediately before the end of the relevant accounting reference period.

(7) In this section “the relevant accounting reference period” means the accounting reference period by reference to which the financial year for the accounts in question was determined.

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<sup>1</sup> Please note that this is the original statutory text as it was at Royal Assent. For updates and consolidations of updates, please refer to a legislative updating service such as Westlaw or LexisNexis.

#### **443 Calculation of period allowed**

- (1) This section applies for the purposes of calculating the period for filing a company's accounts and reports which is expressed as a specified number of months from a specified date or after the end of a specified previous period.
- (2) Subject to the following provisions, the period ends with the date in the appropriate month corresponding to the specified date or the last day of the specified previous period.
- (3) If the specified date, or the last day of the specified previous period, is the last day of a month, the period ends with the last day of the appropriate month (whether or not that is the corresponding date).
- (4) If—
- (a) the specified date, or the last day of the specified previous period, is not the last day of a month but is the 29th or 30th, and
- (b) the appropriate month is February,
- the period ends with the last day of February.
- (5) "The appropriate month" means the month that is the specified number of months after the month in which the specified date, or the end of the specified previous period, falls.

#### *Filing obligations of different descriptions of company*

#### **444 Filing obligations of companies subject to small companies regime**

- (1) The directors of a company subject to the small companies regime—
- (a) must deliver to the registrar for each financial year a copy of a balance sheet drawn up as at the last day of that year, and
- (b) may also deliver to the registrar—
- (i) a copy of the company's profit and loss account for that year, and
- (ii) a copy of the directors' report for that year.
- (2) The directors must also deliver to the registrar a copy of the auditor's report on the accounts (and any directors' report) that it delivers.
- This does not apply if the company is exempt from audit and the directors have taken advantage of that exemption.
- (3) The copies of accounts and reports delivered to the registrar must be copies of the company's annual accounts and reports, except that where the company prepares Companies Act accounts—
- (a) the directors may deliver to the registrar a copy of a balance sheet drawn up in accordance with regulations made by the Secretary of State, and
- (b) there may be omitted from the copy profit and loss account delivered to the registrar such items as may be specified by the regulations.
- These are referred to in this Part as "abbreviated accounts".
- (4) If abbreviated accounts are delivered to the registrar the obligation to deliver a copy of the auditor's report on the accounts is to deliver a copy of the special auditor's report required by section 449.
- (5) Where the directors of a company subject to the small companies regime deliver to the registrar IAS accounts, or Companies Act accounts that are not abbreviated accounts, and in accordance with this section—
- (a) do not deliver to the registrar a copy of the company's profit and loss account, or
- (b) do not deliver to the registrar a copy of the directors' report,
- the copy of the balance sheet delivered to the registrar must contain in a prominent position a statement that the company's annual accounts and reports have been delivered in accordance with the provisions applicable to companies subject to the small companies regime.
- (6) The copies of the balance sheet and any directors' report delivered to the registrar under this section must state the name of the person who signed it on behalf of the board.
- (7) The copy of the auditor's report delivered to the registrar under this section must—

- (a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, or
- (b) if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified to the Secretary of State in accordance with that section.

#### **445 Filing obligations of medium-sized companies**

- (1) The directors of a company that qualifies as a medium-sized company in relation to a financial year (see sections 465 to 467) must deliver to the registrar a copy of—
  - (a) the company's annual accounts, and
  - (b) the directors' report.
- (2) They must also deliver to the registrar a copy of the auditor's report on those accounts (and on the directors' report).

This does not apply if the company is exempt from audit and the directors have taken advantage of that exemption.
- (3) Where the company prepares Companies Act accounts, the directors may deliver to the registrar a copy of the company's annual accounts for the financial year—
  - (a) that includes a profit and loss account in which items are combined in accordance with regulations made by the Secretary of State, and
  - (b) that does not contain items whose omission is authorised by the regulations.

These are referred to in this Part as “abbreviated accounts”.
- (4) If abbreviated accounts are delivered to the registrar the obligation to deliver a copy of the auditor's report on the accounts is to deliver a copy of the special auditor's report required by section 449.
- (5) The copies of the balance sheet and directors' report delivered to the registrar under this section must state the name of the person who signed it on behalf of the board.
- (6) The copy of the auditor's report delivered to the registrar under this section must—
  - (a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, or
  - (b) if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified to the Secretary of State in accordance with that section.

#### **446 Filing obligations of unquoted companies**

- (1) The directors of an unquoted company must deliver to the registrar for each financial year of the company a copy of—
  - (a) the company's annual accounts
  - (b) the directors' report and
  - (c) any separate corporate governance statement
- (2) The directors must also deliver to the registrar a copy of the auditor's report on those accounts (and the directors' report and any separate corporate governance statement.)

This does not apply if the company is exempt from audit and the directors have taken advantage of that exemption.
- (3) The copies of the balance sheet directors' report and any separate corporate governance statement] delivered to the registrar under this section must state the name of the person who signed it on behalf of the board.
- (4) The copy of the auditor's report delivered to the registrar under this section must—
  - (a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, or
  - (b) if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified to the Secretary of State in accordance with that section.
- (5) This section does not apply to companies within—

- (a)section 444 (filing obligations of companies subject to the small companies regime),
- (aa)section 444A (filing obligations of companies entitled to small companies exemption in relation to directors' report), or
- (b)section 445 (filing obligations of medium-sized companies).

#### **447 Filing obligations of quoted companies**

- (1)The directors of a quoted company must deliver to the registrar for each financial year of the company a copy of—
  - (a)the company's annual accounts,
  - (b)the directors' remuneration report
  - (c)the directors' report.
- (2)They must also deliver a copy of the auditor's report on those accounts (and on the directors' remuneration report
- (3)The copies of the balance sheet, the directors' remuneration report delivered to the registrar under this section must state the name of the person who signed it on behalf of the board.
- (4)The copy of the auditor's report delivered to the registrar under this section must—
  - (a)state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, or
  - (b)if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified to the Secretary of State in accordance with that section.

#### *Failure to file accounts and reports*

#### **451 Default in filing accounts and reports: offences**

- (1)If the requirements of section 441 (duty to file accounts and reports) are not complied with in relation to a company's accounts and reports for a financial year before the end of the period for filing those accounts and reports, every person who immediately before the end of that period was a director of the company commits an offence.
- (2)It is a defence for a person charged with such an offence to prove that he took all reasonable steps for securing that those requirements would be complied with before the end of that period.
- (3)It is not a defence to prove that the documents in question were not in fact prepared as required by this Part.
- (4)A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 5 on the standard scale.

#### **452 Default in filing accounts and reports: court order**

- (1)If—
  - (a)the requirements of section 441 (duty to file accounts and reports) are not complied with in relation to a company's accounts and reports for a financial year before the end of the period for filing those accounts and reports, and
  - (b)the directors of the company fail to make good the default within 14 days after the service of a notice on them requiring compliance,
 the court may, on the application of any member or creditor of the company or of the registrar, make an order directing the directors (or any of them) to make good the default within such time as may be specified in the order.
- (2)The court's order may provide that all costs (in Scotland, expenses) of and incidental to the application are to be borne by the directors.

### **453 Civil penalty for failure to file accounts and reports**

(1) Where the requirements of section 441 are not complied with in relation to a company's accounts and reports for a financial year before the end of the period for filing those accounts and reports, the company is liable to a civil penalty.

This is in addition to any liability of the directors under section 451.

(2) The amount of the penalty shall be determined in accordance with regulations made by the Secretary of State by reference to—

(a) the length of the period between the end of the period for filing the accounts and reports in question and the day on which the requirements are complied with, and

(b) whether the company is a private or public company.

(3) The penalty may be recovered by the registrar and is to be paid into the Consolidated Fund.

(4) It is not a defence in proceedings under this section to prove that the documents in question were not in fact prepared as required by this Part.

(5) Regulations under this section having the effect of increasing the penalty payable in any case are subject to affirmative resolution procedure.

Otherwise, the regulations are subject to negative resolution procedure.