

## COMPANIES ACT 2006

ss 415, 416, 417, 418, 419<sup>1</sup>

### CHAPTER 5 DIRECTORS' REPORT

#### *Directors' report*

#### **415 Duty to prepare directors' report**

(1)The directors of a company must prepare a directors' report for each financial year of the company.

(2)For a financial year in which—

(a)the company is a parent company, and

(b)the directors of the company prepare group accounts,

the directors' report must be a consolidated report (a “group directors' report”) relating to the undertakings included in the consolidation.

(3)A group directors' report may, where appropriate, give greater emphasis to the matters that are significant to the undertakings included in the consolidation, taken as a whole.

(4)In the case of failure to comply with the requirement to prepare a directors' report, an offence is committed by every person who—

(a)was a director of the company immediately before the end of the period for filing accounts and reports for the financial year in question, and

(b)failed to take all reasonable steps for securing compliance with that requirement.

(5)A person guilty of an offence under this section is liable—

(a)on conviction on indictment, to a fine;

(b)on summary conviction, to a fine not exceeding the statutory maximum.

(1)A company is entitled to small companies exemption in relation to the directors' report for a financial year if—

(a)it is entitled to prepare accounts for the year in accordance with the small companies regime, or

(b)it would be so entitled but for being or having been a member of an ineligible group.

(2)The exemption is relevant to—

- section 416(3) (contents of report: statement of amount recommended by way of dividend),
- section 417 (contents of report: business review), and
- sections 444 to 446 (filing obligations of different descriptions of company).

#### **416 Contents of directors' report: general**

(1)The directors' report for a financial year must state—

(a)the names of the persons who, at any time during the financial year, were directors of the company, and

(b)the principal activities of the company in the course of the year.

(2)In relation to a group directors' report subsection (1)(b) has effect as if the reference to the company was to the undertakings included in the consolidation.

(3)Except in the case of a company, the report must state the amount (if any) that the directors recommend should be paid by way of dividend.

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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.

(4)The Secretary of State may make provision by regulations as to other matters that must be disclosed in a directors' report.

Without prejudice to the generality of this power, the regulations may make any such provision as was formerly made by Schedule 7 to the Companies Act 1985.

#### **417 Contents of directors' report: business review**

(1)Unless the company is entitled to the small companies exemption, the directors' report must contain a business review.

(2)The purpose of the business review is to inform members of the company and help them assess how the directors have performed their duty under section 172 (duty to promote the success of the company).

(3)The business review must contain—

(a)a fair review of the company's business, and

(b)a description of the principal risks and uncertainties facing the company.

(4)The review required is a balanced and comprehensive analysis of—

(a)the development and performance of the company's business during the financial year, and

(b)the position of the company's business at the end of that year, consistent with the size and complexity of the business.

(5)In the case of a quoted company the business review must, to the extent necessary for an understanding of the development, performance or position of the company's business, include—

(a)the main trends and factors likely to affect the future development, performance and position of the company's business; and

(b)information about—

(i)environmental matters (including the impact of the company's business on the environment),

(ii)the company's employees, and

(iii)social and community issues,

including information about any policies of the company in relation to those matters and the effectiveness of those policies; and

(c)subject to subsection (11), information about persons with whom the company has contractual or other arrangements which are essential to the business of the company.

If the review does not contain information of each kind mentioned in paragraphs (b)(i), (ii) and (iii) and (c), it must state which of those kinds of information it does not contain.

(6)The review must, to the extent necessary for an understanding of the development, performance or position of the company's business, include—

(a)analysis using financial key performance indicators, and

(b)where appropriate, analysis using other key performance indicators, including information relating to environmental matters and employee matters.

- “Key performance indicators” means factors by reference to which the development, performance or position of the company's business can be measured effectively.

(7)Where a company qualifies as medium-sized in relation to a financial year (see sections 465 to 467), the directors' report for the year need not comply with the requirements of subsection (6) so far as they relate to non-financial information.

(8)The review must, where appropriate, include references to, and additional explanations of, amounts included in the company's annual accounts.

(9)In relation to a group directors' report this section has effect as if the references to the company were references to the undertakings included in the consolidation.

(10)Nothing in this section requires the disclosure of information about impending developments or matters in the course of negotiation if the disclosure would, in the opinion of the directors, be seriously prejudicial to the interests of the company.

(11) Nothing in subsection (5)(c) requires the disclosure of information about a person if the disclosure would, in the opinion of the directors, be seriously prejudicial to that person and contrary to the public interest.

#### **418 Contents of directors' report: statement as to disclosure to auditors**

- (1) This section applies to a company unless—
- (a) it is exempt for the financial year in question from the requirements of Part 16 as to audit of accounts, and
  - (b) the directors take advantage of that exemption.
- (2) The directors' report must contain a statement to the effect that, in the case of each of the persons who are directors at the time the report is approved—
- (a) so far as the director is aware, there is no relevant audit information of which the company's auditor is unaware, and
  - (b) he has taken all the steps that he ought to have taken as a director in order to make himself aware of any relevant audit information and to establish that the company's auditor is aware of that information.
- (3) "Relevant audit information" means information needed by the company's auditor in connection with preparing his report.
- (4) A director is regarded as having taken all the steps that he ought to have taken as a director in order to do the things mentioned in subsection (2)(b) if he has—
- (a) made such enquiries of his fellow directors and of the company's auditors for that purpose, and
  - (b) taken such other steps (if any) for that purpose,
- as are required by his duty as a director of the company to exercise reasonable care, skill and diligence.
- (5) Where a directors' report containing the statement required by this section is approved but the statement is false, every director of the company who—
- (a) knew that the statement was false, or was reckless as to whether it was false, and
  - (b) failed to take reasonable steps to prevent the report from being approved,
- commits an offence.
- (6) A person guilty of an offence under subsection (5) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);
    - (ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum (or both).

#### **419 Approval and signing of directors' report**

- (1) The directors' report must be approved by the board of directors and signed on behalf of the board by a director or the secretary of the company.
- (2) If in preparing the report advantage is taken of the small companies exemption it must contain a statement to that effect in a prominent position above the signature.
- (3) If a directors' report is approved that does not comply with the requirements of this Act, every director of the company who—
- (a) knew that it did not comply, or was reckless as to whether it complied, and
  - (b) failed to take reasonable steps to secure compliance with those requirements or, as the case may be, to prevent the report from being approved,
- commits an offence.
- (4) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.