Draft Order laid before Parliament under section 46(8) of the Companies Act 1989 and sections 1252(11), 1290 and 1292(4) of the Companies Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No. 0000

COMPANIES AUDITORS

The Statutory Auditors (Delegation of Functions etc) Order 2008

Made - - - - ***

Coming into force in accordance with article 1

It appears to the Secretary of State that the body known as the Professional Oversight Board established under the articles of association of The Professional Oversight Board Limited(**1**) is willing and able to exercise the functions transferred by this Order.

It appears to the Secretary of State that the body known as the Professional Oversight Board established under the articles of association of The Financial Reporting Council Limited(**2**) is willing and able to exercise the functions transferred by this Order and the Companies Act 1989 (Delegation) Order 2005(**3**).

It appears to the Secretary of State that each of those bodies has arrangements in place relating to the exercise of the functions transferred by this Order which are such as to be likely to ensure that the functions in question will be exercised effectively and to ensure that the functions will be exercised in accordance with the requirements specified in this Order.

It appears to the Secretary of State that the body known as the Professional Oversight Board established under the articles of association of The Financial Reporting Council Limited has arrangements in place relating to the exercise of the functions transferred by the Companies Act 1989 (Delegation) Order 2005 which are such as to be likely to ensure that the functions in question will be exercised effectively and to ensure that the functions will be exercised in accordance with the requirements specified in that Order.

It appears to the Secretary of State that it is no longer in the public interest that the Companies Act 1989 (Delegation) Order 2005 should remain in force, except in relation to functions relating to appointments of company auditors for any financial year beginning before 6th April 2008.

(**1**) Registered number 05081885.
(**2**) Registered number 02486368.
(**3**) S.I. 2005/2337.

The Secretary of State laid a draft of this Order before Parliament in accordance with section 46(8) of the Companies Act 1989(**4**) and sections 1252(11), 1290 and 1292(4) of the Companies Act 2006(**5**), and the draft was approved by a resolution of each House of Parliament.

Now, therefore, the Secretary of State in exercise of the powers conferred upon him by section 46(4) of the Companies Act 1989 and sections 504(1)(b)(ii), 1252(1), (4)(a), (5) and (8) and 1253(4) of, and paragraphs 7(3), 11(2) and (3)(a) of Schedule 13 to, the Companies Act 2006 makes the following Order.

Citation and commencement

1.—(1) This Order may be cited as the Statutory Auditors (Delegation of Functions etc) Order 2008.

(2) This article and article 2 come into force on 1st March 2008.

(3) Articles 3, 6 and 8 come into force on 1st March 2008 for the purposes of functions in relation to appointments of auditors for financial years beginning on or after 6th April 2008.

(4) Subject to paragraph (6), articles 4, 5, 7 and 9 to 11 come into force on 6th April 2008 for the purposes of functions in relation to appointments of auditors for financial years beginning on or after 6th April 2008.

(5) Article 12 comes into force on 6th April 2008.

(6) Articles 4 and 9 come into force on 29th June 2008 for the purpose of transferring the functions under sections 1242, 1243 and 1244 of, and Schedule 12 to, the Act (registered third country auditors) in relation to appointments of registered third country auditors for financial years beginning on or after 29th June 2008.

Interpretation

2. In this Order—

"the Act" means the Companies Act 2006;

"the first designated body" means the body known as the Professional Oversight Board established under the articles of association of The Professional Oversight Board Limited;

"the second designated body" means the body known as the Professional Oversight Board established under the articles of association of The Financial Reporting Council Limited.

Transfer of certain functions conferring a power to make regulations

3.—(1) The functions of the Secretary of State conferring a power to make regulations under—

(a) section 1239 of the Act (register of auditors) except for the function under subsection (1) (b) of that section,

(b) section 1240 of the Act (information to be made available to public), and

(c) paragraph 8(1)(a) of Schedule 11 to the Act (prescription of examination subjects),

are transferred to the first designated body, subject to the reservation specified in paragraph (2).

(2) The transfer of the functions conferring a power to make regulations referred to in paragraph (1) is subject to the reservations that such regulations—

(**4**) 1989 c.40.
(**5**) 2006 c.46.

(a) must not come into force before 6th April 2008; and

(b) must not apply in relation to appointments of auditors for financial years beginning before 6th April 2008.

(3) The transfer of the functions referred to in paragraph (1) ceases to have effect on 6th April 2008.

Transfer of functions

4.—(1) All the functions of the Secretary of State under Part 42 of the Act (statutory auditors) are transferred to the second designated body, subject to—

(a) the exceptions specified in section 1252(4)(b) of the Act (functions not transferred by the Order);

(b) the exceptions specified in paragraph (2); and

(c) the reservations specified in paragraphs (3) and (4).

(2) The functions of the Secretary of State under—

(a) section 1210 of the Act (meaning of "statutory auditor"),

(b) section 1214 of the Act (power to specify connection between persons for purposes of independence requirement),

(c) section 1231 of the Act (laying report by independent supervisor of auditors general before each House of Parliament),

(d) section 1237(3) of the Act (provision for pending proceedings in order revoking appointment of independent supervisor),

(e) section 1239(1)(b) of the Act (making regulations for register of third country auditors),

(f) section 1241(2)(c) of the Act (exclusion of bodies corporate from definition of "traded non-Community company"),

(g) section 1246 of the Act (removal of third country auditors from the register of auditors),

(h) section 1261(3) of the Act (power to modify Part 42 of the Act (statutory auditors) for purposes of application to certain bodies), and

(i) section 1263 of the Act (power to amend enactments in consequence of changes affecting accountancy bodies),

are not transferred by this Order.

(3) The transfer of the functions of the Secretary of State under—

(a) section 1224 of the Act (power to call for information from recognised bodies etc),

(b) section 1239(8) of the Act (obligations relating to register enforceable by injunction etc),

(c) section 1244 of the Act (power to call for information from registered third country auditors),

(d) section 1253A of the Act(**6**) (requests to EEA competent authorities), and

(e) section 1254 of the Act (directions to comply with international obligations),

is subject to the reservation that the functions remain exercisable concurrently by the Secretary of State.

(4) The transfer of the functions of the Secretary of State of—

(**6**) Sections 1253A and 1253B were inserted by regulation 14 of the Statutory Auditors and Third Country Auditors Regulations 2007 (S.I. 2007/3494).