

DRAFT MARK UP

Amendments to be made by the Draft Companies (Strategic Report and Directors' Report) Regulations 2023

CHAPTER 4A STRATEGIC REPORT

414A Duty to prepare strategic report

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

(2) Subsection (1) does not apply if the company is entitled to the small companies exemption.

(3) For a financial year in which—

(a) the company is a parent company, and

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

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

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

(5) In the case of failure to comply with the requirement to prepare a strategic 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.

(6) 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.

414B Strategic report: small companies exemption

A company is entitled to the small companies exemption in relation to the strategic 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.

414C Contents of strategic report

(1) The purpose of the strategic report 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).

(2) The strategic report must contain—

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

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

Section 414CZA (section 172(1) statement), sections 414CA and 414CB (non-financial and sustainability information statement) and sections 414CC to CF (resilience statement and audit and assurance policy statement) make further provision about the contents of a strategic report.

(3) 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.

(4) 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.

(5) In subsection (4), "key performance indicators" means factors by reference to which the development, performance or position of the company's business can be measured effectively.

(6) Where a company qualifies as medium-sized in relation to a financial year (see sections 465 to 467), the review for the year need not comply with the requirements of subsection (4) so far as they relate to non-financial information.

(7) In the case of a quoted company the strategic report 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, community and human rights issues,

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

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

(8) In the case of a quoted company the strategic report must include—

(a) a description of the company's strategy,

(b) a description of the company's business model,

(c) a breakdown showing at the end of the financial year—

(i) the number of persons of each sex who were directors of the company;

(ii) the number of persons of each sex who were senior managers of the company (other than persons falling within sub-paragraph (i)); and

(iii) the number of persons of each sex who were employees of the company.

(9) In subsection (8), "senior manager" means a person who—

(a) has responsibility for planning, directing or controlling the activities of the company, or a strategically significant part of the company, and

(b) is an employee of the company.

(10) In relation to a group strategic report—

(a) the reference to the company in subsection (8)(c)(i) is to the parent company; and

(b) the breakdown required by subsection (8)(c)(ii) must include the number of persons of each sex who were the directors of the undertakings included in the consolidation.

(11) The strategic report, **including the non-financial and sustainability statement, the resilience statement and the audit and assurance policy statement**, may also contain such of the matters otherwise required by regulations made under section 416(4) or section 468 to be disclosed in the directors' report as the directors consider are of strategic importance to the company.

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

(13) Subject to paragraph (10), in relation to a group strategic report this section has effect as if the references to the company were references to the undertakings included in the consolidation.

(14) 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.

414CZA.Section 172(1) statement

(1) A strategic report for a financial year of a company must include a statement (a “section 172(1) statement”) which describes how the directors have had regard to the matters set out in section 172(1)(a) to (f) when performing their duty under section 172.

(2) Subsection (1) does not apply if the company qualifies as medium-sized in relation to that financial year (see sections 465 to 467).

414CA Non-financial and sustainability information statement

(A1) A strategic report of a company to which this subsection applies must include a non-financial and sustainability information statement.

(1) Subsection (A1) applies to a company if it was at any time within the financial year to which the report relates—

(a) a traded company,

(b) a banking company,

(c) an authorised insurance company, ...

(d) a company carrying on insurance market activity or

(e) a company any securities of which are admitted to trading on the market known as the Alternative Investment Market.

(1A) Subsection (A1) also applies to a company if it was a high turnover company in relation to that financial year.

(1B) Subsections (1) and (1A) are subject to subsections (3) to (7).

(2) If the company’s strategic report is a group strategic report, the non-financial and sustainability information statement to be included in the report under subsection (A1) must be a consolidated statement (a “group non-financial and sustainability information statement”) relating to the undertakings included in the consolidation.

(2A) A company is a “high turnover company” in relation to a financial year—

(a) where the company was not a parent company in that financial year, if in that year the company’s turnover was more than £500 million;

(b) where the company was a parent company at any time within that financial year, if in that year a group headed by the company had an aggregate turnover of more than £500 million net.

(2B) For a period that is a company’s financial year but not in fact a year the figures for turnover given by subsection (2A) must be proportionately adjusted.

(2C) For the purposes of subsection (2A)(b)—

(a) aggregate turnover is ascertained by aggregating the relevant figures determined for each member of the group;

(b) “net”, in relation to aggregate turnover, is to be interpreted in accordance with section 383(6).

(2D) Section 383(7) applies for the purposes of subsection (2A)(b) of this section as it applies for the purposes of section 383.

(3) Subsection (A1) does not apply to a company if—

(a) the company is subject to the small companies regime in relation to that financial year (see sections 382 to 384), or

(b) the company qualifies as medium-sized in relation to that financial year (see sections 465 to 467).

(4) Subsection (A1) does not apply—

(a) to a company which was not a parent company in that financial year, if the company had no more than 500 employees in that financial year, or

(b) to a company which was a parent company at any time within that financial year, if the aggregate number of employees for a group headed by that company in that financial year was no more than 500.

(5) The number of employees means the average number of persons employed by the company in the year, determined as follows—

(a) find for each month in the financial year the number of persons employed under contracts of service by the company in that month (whether throughout the month or not),

(b) add together the monthly totals, and

(c) divide by the number of months in the financial year.

(6) The aggregate number of employees for a group is ascertained by aggregating the relevant figures determined in accordance with subsection (5) for each member of the group.

(7) Subsection (A1) does not apply to a company if the company is a subsidiary undertaking at the end of that financial year and is included in—

(a) a group strategic report of a parent undertaking of the company that satisfies the requirements in subsection (8), ...

(b)

(8) The requirements in this subsection are that—

(a) the group strategic report relates to undertakings that include the company and its subsidiary undertakings (if any),

(b) the report is prepared for a financial year of the parent undertaking that ends at the same time as, or before the end of, the company’s financial year, and

(c) the report includes a group non-financial and sustainability information statement in respect of all the undertakings included in the consolidation.

(9)

(10) A company to which subsection (A1) does not apply may include a non-financial and sustainability information statement in its strategic report or, as the case may be, a group non-financial and sustainability information statement in its group strategic report.

414CB Contents of non-financial and sustainability information statement

(A1) The non-financial and sustainability information statement must contain the climate-related financial disclosures of the company.

(1) If the company is of a kind described in section 414CA(1)(a), (b), (c) or (d), the non-financial and sustainability information statement must contain information, to the extent necessary for an understanding of the company's development, performance and position and the impact of its activity, relating to, as a minimum—

- (a) environmental matters (including the impact of the company's business on the environment),
- (b) the company's employees,
- (c) social matters,
- (d) respect for human rights, and
- (e) anti-corruption and anti-bribery matters.

(2) The information required by subsection (1) must include—

- (a) a brief description of the company's business model,
- (b) a description of the policies pursued by the company in relation to the matters mentioned in subsection (1)(a) to (e) and any due diligence processes implemented by the company in pursuance of those policies,
- (c) a description of the outcome of those policies,
- (d) a description of the principal risks relating to the matters mentioned in subsection (1)(a) to (e) arising in connection with the company's operations and, where relevant and proportionate—
 - (i) a description of its business relationships, products and services which are likely to cause adverse impacts in those areas of risk, and
 - (ii) a description of how it manages the principal risks, and
- (e) a description of the non-financial key performance indicators relevant to the company's business.

(2A) In this section, "climate-related financial disclosures" mean—

(a) a description of the company's governance arrangements in relation to assessing and managing climate-related risks and opportunities;

(b) a description of how the company identifies, assesses, and manages climate-related risks and opportunities;

(c) a description of how processes for identifying, assessing, and managing climate-related risks are integrated into the company's overall risk management process;

(d) a description of—

(i) the principal climate-related risks and opportunities arising in connection with the company's operations, and

(ii) the time periods by reference to which those risks and opportunities are assessed;

(e) a description of the actual and potential impacts of the principal climate-related risks and opportunities on the company's business model and strategy;

(f) an analysis of the resilience of the company's business model and strategy, taking into consideration different climate-related scenarios;

(g) a description of the targets used by the company to manage climate-related risks and to realise climate-related opportunities and of performance against those targets; and

(h) a description of the key performance indicators used to assess progress against targets used to manage climate-related risks and realise climate-related opportunities and of the calculations on which those key performance indicators are based.

(3) In subsection (2)(e), "key performance indicators" means factors by reference to which the development, performance or position of the company's business, or the impact of the company's activity, can be measured effectively.

(4) If the company does not pursue policies in relation to one or more of the matters mentioned in subsection (1)(a) to (e), the statement must provide a clear and reasoned explanation for the company's not doing so.

(4A) Where the directors of a company reasonably believe that, having regard to the nature of the company's business, and the manner in which it is carried on, the whole or a part of a climate-related financial disclosure required by subsection (2A)(e), (f), (g) or (h) is not necessary for an understanding of the company's business, the directors may omit the whole or (as the case requires) the relevant part of that climate-related financial disclosure.

(4B) Where the directors omit the whole or part of a climate-related financial disclosure in reliance on subsection (4A) the non-financial and sustainability information statement must provide a clear and reasoned explanation of the directors' reasonable belief mentioned in that subsection.

(5)The statement must, where appropriate, include references to, and additional explanations of, amounts included in the company’s annual accounts.

(6)If information required by subsections (1) to (5) to be included in the statement is published by the company by means of a national, EU-based or international reporting framework, the statement must specify the framework or frameworks used, instead of including that information.

(7)If a non-financial and sustainability information statement complies with subsections (1) to (6), the strategic report of which it is part is to be treated as complying with the requirements in—

(a)section 414C(4)(b),

(b)section 414C(7), except as it relates to community issues,

(c)section 414C(8)(b), and

(d)section 414C(12), so far as relating to the provisions mentioned in paragraphs (a) to (c).

(8)In relation to a group non-financial and sustainability information statement, this section has effect as if the references to the company were references to the undertakings included in the consolidation.

(9)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 commercial interests of the company, provided that the non-disclosure does not prevent a fair and balanced understanding of the company’s development, performance or position or the impact of the company’s activity.

(10)The Secretary of State may issue guidance on the climate-related financial disclosures, which are described in subsection (2A), and otherwise in connection with the requirements of this section and section 414CA.

“Company with a high level of employees and turnover

414CC.—(1) For the purposes of this Act, a company is a “company with a high level of employees and turnover” in relation to a financial year—

(a) where the company was not a parent company—

(i) if the company had 750 or more employees; and

(ii) if the company’s turnover equals or exceeds £750 million; and

(b) where the company was a parent company -

(i) if the aggregate number of employees for a group headed by that company equalled or exceeded 750 employees; and

(ii) if in that year a group headed by the company had an aggregate turnover of £750 million or more.

(2) For a period that is a company’s financial year but not in fact a year the figures for turnover given by subsection (1) must be proportionately adjusted.

(3) For the purposes of subsection (1)(b)(ii)—

(a) aggregate turnover is ascertained by aggregating the relevant figures determined for each member of the group;

(b) “net”, in relation to aggregate turnover, is to be interpreted in accordance with section 383(6).

(4) Section 383(7) applies for the purposes of subsection (1)(b) of this section as it applies for the purposes of section 383.

(5) The number of employees means the average number of persons employed by the company in the year, determined as follows—

- (a) find for each month in the financial year the number of persons employed under contracts of service by the company in that month (whether throughout the month or not),
- (b) add together the monthly totals, and
- (c) divide by the number of months in the financial year.

(6) The aggregate number of employees for a group is ascertained by aggregating the relevant figures determined in accordance with subsection (5) for each member of the group.

Resilience statement

414CD.—(1) If during a financial year a company is a company with a high level of employees and turnover, the company’s strategic report for that financial year must contain a resilience statement which—

- (a) is structured to have an introduction followed by sections dealing with the short, medium and long term; and
- (b) sets out the information described in subsections (3) to (8) to the extent that it is necessary for an understanding of the company’s approach to managing risk and building resilience over the short, medium and long-term.

(2) If the company’s strategic report is a group strategic report, the resilience statement must be a consolidated statement (a “group resilience statement”).

(3) The introduction to the resilience statement must—

- (a) summarise the company’s approach to managing risk and building resilience over the short, medium and long-term including the company’s—
 - (i) strategic approach to managing material risks and how this relates to the company’s business planning and investment cycle; and
 - (ii) internal governance processes for managing material risks and the role of directors;
- (b) in the case of a quoted company and to the extent not already dealt with under paragraph (a), explain how the resilience statement has been informed by and is consistent with the forward-looking disclosures which the company is required to make by:
 - (i) section 414C(7)(a) (the main trends and factors likely to affect the future development, performance and position of the company’s business);
 - (ii) section 414C(8)(a) (a description of the company’s strategy); and
 - (iii) section 414C(8)(b) (a description of the company’s business model).

(4) The short-term section of the resilience statement must—

- (a) identify and explain the time period which is covered by the short-term section which must equal the period set out in accordance with paragraph (d);
- (b) set out, in addition to any material risks which the directors set out in accordance with subsection (6), as relevant to the resilience of the company in the short-term, any other information necessary for the understanding of the company’s management of material risk over the short term;
- (c) contain a summary of the matters relevant to the going concern status of the company which—
 - (i) summarises the reasons for the company’s decision whether or not to adopt the going concern basis of accounting in the relevant period, including, where relevant to that decision, reference to the company’s levels of drawn and undrawn borrowing facilities

- and any covenants that may impact on the company's continuing ability to access those facilities;
- (ii) discloses any material risks or uncertainties that cast significant doubt on the company continuing to operate as a going concern during the relevant period;
 - (iii) where necessary to help users of the summary to understand the current position and future prospects of the business, disclose and explain the reasons why the directors have decided that there are no material risks or uncertainties to the company operating as a going concern, including any mitigating action taken by the directors to enable this decision to be taken;
 - (d) set out the period covered by the summary of the going concern status of the company, which must equal or exceed twelve months commencing on the date on which the company's annual accounts for the previous financial year are approved and signed on behalf of the board in accordance with section 414 (approval and signing of accounts).
- (5) The medium-term section must—
- (a) identify and explain the time period which is covered by the medium-term section including how the chosen period aligns with the company's strategy and its business investment cycle;
 - (b) set out, in addition to any material risks which the directors have set out in accordance with subsection (6) as relevant to the resilience of the company in the medium-term, any other information necessary for the understanding of the company's management of material risk over the medium term;
 - (c) provide an assessment of the company's prospects and of the likelihood that the company will continue in operation and meet its liabilities as they fall due during the period covered by the medium-term section which:
 - (i) takes account of the material risks which the directors have set out in accordance with subsection (6) as relevant to the resilience of the company in the medium-term;
 - (ii) demonstrates how the assessment has had regard to the company's expected financing facilities and financing needs, and any related covenants over the medium term;
 - (iii) demonstrates how the assessment has had regard to the company's strategy and the main trends and factors likely to affect the future development, performance and position of the company's business; and
 - (iv) sets out at least one reverse stress test, which must:
 - (aa) identify a combination of adverse circumstances which would cause the company's business plan to fail;
 - (bb) assess the likelihood of such a combination of circumstances occurring; and
 - (cc) summarise the results of this assessment and any mitigating action put in place by the directors.
- (6) The directors must set out, in the short or medium-term sections of the resilience statement, as they consider to be appropriate—
- (a) those material risks that could threaten the business model, operations, future performance, solvency or liquidity of the company over the relevant period, and
 - (b) each of the following matters to the extent that they either constitute a material risk in themselves or are relevant to the company's management of material risk during the relevant period—
 - (i) the company's financial liabilities or expected refinancing needs;
 - (ii) the company's operational and financial preparedness for a significant and prolonged disruption to its normal business trading;
 - (iii) accounting judgements or estimates which are contained in the company's annual accounts for the financial year to which the strategic report relates and which are material for the solvency and liquidity of the company;

- (iv) the company's digital security risks, including cyber security threats and the risk of significant breaches of its data protection obligations;
- (v) areas of business dependency, with regard to the company's suppliers, customers, products, contracts, services or markets, which may constitute a material risk; and
- (vi) the impact of climate-related risks on the company's business model, to the extent that this is not already disclosed in the non-financial and sustainability information statement or elsewhere in the strategic report.

(7) The directors must, in addition, set out in the short or medium-term sections of the resilience statement, as they consider to be appropriate, the following information concerning each risk which is set out in accordance with subsection (6)(a) and (b)—

- (a) the likelihood of the risk occurring and its impact on the company's operations or financial health if it were to occur;
- (b) the time period over which the risk is expected to continue as a risk or to occur, if known;
- (c) what mitigating action, if any, the company has put or plans to put in place to manage the risk; and
- (d) any significant changes to the disclosures required by paragraphs (a) to (c) since the previous resilience statement.

(8) The long-term section must—

- (a) identify and explain the time period covered by the long-term section and the reasons for choosing it;
- (b) contain a summary assessment of those long-term trends and factors that are likely to remain or occur beyond the medium-term assessment period, and which the directors believe could represent a major threat in future to the company's business model or operations; and
- (c) an explanation of any plans that the company has put in place and of any adaptations that the company is proposing to make to its business model or operations to meet the long-term challenges which it has identified.

(9) Subsection (1) does not apply if the company is a subsidiary undertaking at the end of that financial year and is included in a group strategic report of a parent undertaking of the company that satisfies the requirements in subsection (10).

(10) The requirements in this subsection are that—

- (a) the group strategic report relates to undertakings that include the company and its subsidiary undertakings (if any),
- (b) the report is prepared for a financial year of the parent undertaking that ends at the same time as, or before the end of, the company's financial year, and
- (c) the report includes a group resilience statement in respect of all the undertakings which are included in the consolidation.

Audit and assurance policy statement

414CE.—(1) If during a financial year a company is a company with a high level of employees and turnover, the company's strategic report for that financial year must, to the extent necessary for an understanding of the company's development, position and performance, contain an audit and assurance policy statement which sets out the information which is described in paragraphs (a) to (h)—

- (a) an explanation of the company's plans for obtaining internal audit and assurance over any corporate disclosures in the reports and accounts which the company will be required to produce during the next three years and which will not be subject to statutory audit under section 495 nor to audit under sections 496, 497 and 497A;
- (b) a description of the company's operation and governance of internal auditing and assurance;
- (c) an explanation of how any management conclusions and judgements, which are disclosed in the annual report and accounts, may be challenged and verified within the company;

- (d) a statement of whether, and if so how, the company is proposing to strengthen its internal audit and assurance capabilities over the next three years;
 - (e) what independent assurance, if any, the company intends to obtain in the next three years, in relation to the annual accounts and annual and half yearly reports of the company, in addition to—
 - (i) the statutory audit of the accounts under section 495; and
 - (ii) the statutory auditor’s duties under sections 496, 497 and 497A;
 - (f) specific information on whether, and if so how, the company intends to obtain independent assurance over:
 - (i) the company’s resilience statement; and
 - (ii) the effectiveness of the company’s internal controls over financial reporting;
 - (g) an explanation of how shareholder views have been taken into account in the development of the audit and assurance policy, including the extent to which the views of employees and any other stakeholders have been taken into account; and
 - (h) an explanation of the company’s policies in relation to the tendering of external audit services, including the extent to which the company intends to contract with the company’s statutory auditor to provide services in addition to the statutory audit.
- (2) The statement must set out whether any independent assurance which is referred to in subsections (1)(e) and (f)—
- (a) will be reasonable or limited assurance, as described in the definition of “reasonable or limited assurance engagement” in the Glossary, which forms part of the revised Ethical Standard, dated December 2019, published by the Financial Reporting Council in its role of competent authority responsible for the oversight of statutory auditors; or
 - (b) will take an alternative form of assurance as agreed between the company and the external provider; and
 - (c) will be carried out in accordance with—
 - (i) the International Standard on Assurance Engagements (ISAE) 3000 Revised (which covers information other than audits or reviews of historical financial information) which was adopted for use in the UK in July 2020 by the Financial Reporting Council in its role of competent authority responsible for the oversight of statutory auditors; or
 - (ii) any other international standard on assurance which is adopted in future for use in the UK by the Financial Reporting Council in its role of competent authority responsible for the oversight of statutory auditors.
- (3) The duty, which is set out in subsection (1),
- (a) first applies in respect of the financial year of the company which commences on or after the later of—
 - (i) [1st January 2024] or, in the case of a company whose equity share capital is not admitted to trading on a UK regulated market, [1st January 2025]; and
 - (ii) the date on which the company becomes a company with a high level of employees and turnover; and
 - (b) thereafter, in every third financial year of the company.
- (4) In those financial years in which the company is not required to produce an audit and assurance policy statement, in accordance with subsection (1), the company must include in its strategic report a short audit and assurance update which sets out how, during the relevant financial year, the company has—
- (a) implemented its audit and assurance policy during the relevant financial year; and
 - (b) obtained the independent assurance described in subsection (1)(e).
- (5) In each financial year, in which the company is required to produce an audit and assurance policy statement, other than the first audit and assurance policy statement, the company must include in the statement—

- (a) a short update which sets out how the company has implemented its audit and assurance policy during the previous financial year; and
- (b) a description of the extent to which it has obtained the independent assurance described in subsection (1)(e).

(6) If the company's strategic report is a group strategic report, the audit and assurance policy statement to be included in the report under subsection (1) must be a consolidated statement (a "group audit and assurance statement") relating to the undertakings in the consolidation.

(7) Subsection (1) does not apply if the company is a subsidiary undertaking at the end of that financial year and is included in a group strategic report of a parent undertaking of the company that satisfies the requirements in subsection (8).

(8) The requirements in this subsection are that—

- (a) the group strategic report relates to undertakings that include the company and its subsidiary undertakings (if any),
- (b) the report is prepared for a financial year of the parent undertaking that ends at the same time as, or before the end of, the company's financial year, and
- (c) the report includes a group audit and assurance policy statement in respect of all the undertakings which are included in the consolidation.

The production of the resilience statement and the audit and assurance policy statement

414CF.—(1) To the extent that information is set out in the resilience statement or the audit and assurance policy statement, a company is not required to repeat it elsewhere in the strategic report.

(2) Section 414CD does not require the disclosure of information about impending developments, matters in the course of negotiation or other matters if the disclosure would, in the opinion of the directors, be seriously prejudicial to the commercial interests of the company, provided that the non-disclosure does not prevent a fair and balanced understanding of the company's development, performance or position or the impact of the company's activity.

(3) The directors of the company must prepare and retain documentary evidence of each stress test which is carried out in accordance with section 414CD(5)(c)(iv).".

414D Approval and signing of strategic report

(1)The strategic 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 a strategic 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.

(3)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.

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.

(1A) Subsection (1) does not apply if the company qualifies as a micro-entity (see sections 384A and 384B).

(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.

415A Directors' report: small companies exemption

(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), 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)

(2)

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

(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.

“Contents of directors’ report: distribution policy statement

416A. If, during a financial year, a company is a company with a high level of employees and turnover, the directors’ report for that financial year must contain a distribution policy statement which describes—

- (a) the board’s policy towards the amount and timing of distributions to shareholders during the period covered by the medium-term section of the resilience statement;
- (b) the considerations and factors underlying the distributions policy including the availability of distributable reserves and cash within the company or group,
- (c) the directors’ approach to capital allocation;
- (d) the constraints and key risks to implementing and sustaining the directors’ distribution policy; and
- (e) how the policy has been implemented in the financial year being reported upon.

Contents of directors’ report: statement of distributable profits

416B.—(1) If, during a financial year, a company is a company with a high level of employees and turnover, the directors’ report for that financial year must contain a statement of distributable profits.

(2) The directors must set out in the statement of distributable profits for the relevant financial year—

- (a) the amount of the company’s accumulated, realised profits, so far as not previously utilised by distribution or capitalisation, less its accumulated, realised losses, so far as not previously written off in a reduction or reorganisation of capital, as described by section 830(2) of the Companies Act (“distributable profits”); and
- (b) the amount by which the distributable profits have increased or decreased during the relevant financial year.

(3) If during the relevant financial year, the company was both a company with a high level of employees and turnover and a public company—

- (a) the statement of distributable profits must, in addition, state whether the amount of the distributable profits is affected by the net asset restriction which is set out in section 831 of the Companies Act (“distributable profits after the application of the net asset restriction”) and,
- (b) if so, the amount—

- (i) of the distributable profits after the application of the net asset restriction; and
- (ii) by which those profits have increased or decreased during the relevant financial year.

(4) If during a financial year, a company was both a company with a high level of employees and turnover and an authorised insurance company, carrying on long-term business within the meaning of section 833A(9) (“relevant insurance company”), subsection (1) and, where relevant subsection (2), is modified so that, for the purpose of calculating the company’s distributable profits, section 833A(2) to (9) applies to determine how the realised profit or loss of the relevant insurance company, during the relevant financial year, is calculated.

(5) If during a financial year, a company was both a company with a high level of employees and turnover and an investment company, within the meaning of section 833, (“a relevant investment company”), subsections (1) and (2) do not apply, and the directors’ report for that financial year must contain a statement of distributable revenue profits.

(6) The statement of distributable revenue profits must state—

- (a) the amount of the company’s accumulated, realised revenue profits, so far as not previously utilised by a distribution or capitalisation, and which are available for distribution, during that year within the meaning of section 832 of the Companies Act (“distributable revenue profits”);
- (b) the amount by which the distributable revenue profits have increased or decreased during the relevant financial year;
- (c) any distributable revenue profits which—
 - (i) have not previously been utilised by a distribution or capitalisation; and
 - (ii) exceed the company’s accumulated revenue losses (whether realised or unrealised) so far as not previously written off in a reduction or reorganisation of capital, duly made; and
- (d) whether the amount of the distributable revenue profits is affected by the net asset restriction, which is set out in section 831 of the Companies Act (“distributable revenue profits after the application of the net asset restriction”), and, if so, the amount—
 - (i) of the distributable revenue profits after the application of the net asset restriction; and
 - (ii) by which the distributable revenue profits after the application of the net asset restriction have increased or decreased during the relevant financial year.

(7) Where it is impractical to calculate and disclose an exact figure for—

- (a) a company’s distributable profits or distributable profits after the application of the net asset restriction, or
- (b) in the case of a relevant investment company, distributable revenue profits or distributable revenue profits after the application of the net asset restriction

including as a result of historical trading activity, the directors must—

- (a) in each case show a minimum figure for the relevant amount; and
- (b) explain why they regard it as impractical to calculate an exact figure.

Contents of directors’ report: distribution confirmation statement

416C.—(1) If, during the relevant financial year, the company was a company with a high level of employees and turnover, the directors’ report for that financial year, must contain a distribution confirmation statement in which the directors must confirm, in respect of the relevant financial year, the issues which are set out below.

(2) That the amounts (if any) which, during the relevant financial year—

- (a) the company has made by way of distribution complied with the requirements which are set out in sections 836 to 840 (justification of distribution by reference to accounts); and
- (b) the directors have recommended be made by way of distribution, do not exceed the amount of distributable profits which are stated in accordance with subsection 416B(2).

(3) If during the relevant financial year, the relevant company was a public company, the directors must, in addition, confirm, that the amounts (if any) which, during the relevant financial year, the company has made by way of distribution or recommended to be made by way of distribution complied with the net asset restriction imposed by section 831.

(4) If during the relevant financial year, the company was a relevant insurance company the directors must, in addition, confirm that section 833A(2) to (9) was applied to determine how the realised profit or loss of the relevant insurance company was calculated.

(5) If during the relevant financial year, the company was a relevant investment company subsection (2) does not apply and the directors' confirmation statement for that financial year, must confirm that the company's distributable revenue profits and distributable revenue profits after the application of the net asset restriction were calculated in accordance with sections 831 and 832 of the Companies Act.

Contents of directors' report: material fraud statement

416D.—(1) The directors' report for a financial year, during which the company was a company with a high level of employees and turnover, must contain a material fraud statement which must—

- (a) describe any material fraud detected by the company during the relevant financial year including the effect of the fraud on the business and the actions taken by directors to address it;
- (b) summarise the directors' assessment of the risk of material fraud to the company's business operations, including how the directors have assessed the company's susceptibility to material fraud and the types of material fraud considered; and
- (c) describe those measures which the directors have taken to prevent and detect the occurrence of material fraud during the relevant financial year.

(2) For the purposes of this section, fraud is "material" when its nature or magnitude could reasonably be expected to influence the decisions which shareholders take in connection with their shareholding in the company.

Application of distribution policy statement, statement of distributable profits, distribution confirmation statement in the case of a subsidiary undertaking and of the material fraud statement in the case of a group directors' report

416E.—(1) Subsections 416A(1), 416B(1) and (5), 416C(1) and (5) do not apply if during the relevant financial year –

- (a) the company is a subsidiary undertaking, and the company, together with its subsidiaries (if any), is included in a group directors' report, which is prepared by the directors of a parent company, for a financial year of the parent company which ends at the same time as, or before the end of, the company's financial year;
- (b) the parent company is a company with a high level of employees and turnover, and
- (c) the group directors' report, for the relevant financial year, includes a distribution policy statement, statement of distributable profits and distribution confirmation statement which relate to the distributions and distributable profits of the parent company and are produced in accordance with subsections 416A(1), 416B(1) and (5) and 416C(1) and (5).

(2) Where the directors of a parent company, which is a company with a high level of employees and turnover, produce a group directors' report, the report, in its application to distributions, must contain a distribution policy statement, statement of distributable profits and distribution confirmation statement in respect of the distributions and distributable profits of the parent company rather than in respect of the undertakings which are included in the consolidation.

(3) Subsection 416D(1) does not apply if the company is a subsidiary undertaking at the end of the relevant financial year and is included in a group directors' report of a parent undertaking of the company that satisfies the requirements in subsection (4).

(4) The requirements in this subsection are that—

- (a) the group directors' report relates to undertakings that include the company and its subsidiary undertakings (if any),
- (b) the report is prepared for a financial year of the parent undertaking that ends at the same time as, or before the end of, the company's financial year, and
- (c) the report includes a group material fraud statement in respect of each of those undertakings which are included in the consolidation.”.

417 Contents of directors' report: business review

.....

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.

419A Approval and signing of separate corporate governance statement

Any separate corporate governance statement must be approved by the board of directors and signed on behalf of the board by a director or the secretary of the company.

PART 16

CHAPTER 3 FUNCTIONS OF AUDITOR

495 Auditor's report on company's annual accounts

(1) A company's auditor must make a report to the company's members on all annual accounts of the company of which copies are, during his tenure of office—

(a) in the case of a private company, to be sent out to members under section 423;

(b) in the case of a public company, to be laid before the company in general meeting under section 437.

(2) The auditor's report must include—

- (a) the identity of the company whose annual accounts are the subject of the audit,
- (b) a description of the annual accounts that are the subject of the audit (including the period covered by those accounts),
- (c) a description of the financial reporting framework that has been applied in the preparation of those accounts, and
- (d) a description of the scope of the audit identifying the auditing standards in accordance with which the audit was conducted.

(3) The report must state clearly whether, in the auditor's opinion, the annual accounts—

(a) give a true and fair view—

(i) in the case of an individual balance sheet, of the state of affairs of the company as at the end of the financial year,

(ii) in the case of an individual profit and loss account, of the profit or loss of the company for the financial year,

(iii) in the case of group accounts, of the state of affairs as at the end of the financial year and of the profit or loss for the financial year of the undertakings included in the consolidation as a whole, so far as concerns members of the company;

(b) have been properly prepared in accordance with the relevant financial reporting framework; and

(c) have been prepared in accordance with the requirements of this Act

Expressions used in this subsection or subsection (3A) that are defined for the purposes of Part 15 (see sections 464, 471 and 474) have the same meaning as in that Part.

(3A) The following provisions apply to the auditors of a company which qualifies as a micro-entity in relation to a financial year (see sections 384A and 384B) in their consideration of whether the Companies Act individual accounts of the company for that year give a true and fair view as mentioned in subsection

(3)(a)—

(a) where the accounts comprise only micro-entity minimum accounting items, the auditors must disregard any provision of an accounting standard which would require the accounts to contain information additional to those items,

(b) in relation to a micro-entity minimum accounting item contained in the accounts, the auditors must disregard any provision of an accounting standard which would require the accounts to contain further information in relation to that item, and

(c) where the accounts contain an item of information additional to the micro-entity minimum accounting items, the auditors must have regard to any provision of an accounting standard which relates to that item.

(4) The auditor's report—

- (a) must be either unqualified or qualified,
 - (b) must include a reference to any matters to which the auditor wishes to draw attention by way of emphasis without qualifying the report,
 - (c) must include a statement on any material uncertainty relating to events or conditions that may cast significant doubt about the company's ability to continue to adopt the going concern basis of accounting, and
 - (d) must identify the auditor's place of establishment.
- (5) Where more than one person is appointed as an auditor—
- (a) all the persons appointed must jointly make a report under this section and the report must include a statement as to whether all the persons appointed agree on the matters contained in the report, and
 - (b) if all the persons appointed cannot agree on the matters contained in the report, the report must include the opinions of each person appointed and give reasons for the disagreement.

496 Auditor's report on strategic report and on directors' report

- (1) Subject to subsection (3), in his report on the company's annual accounts, the auditor must—
- (a) state whether, in his opinion, based on the work undertaken in the course of the audit—
 - (i) the information given in the strategic report (if any) and the directors' report for the financial year for which the accounts are prepared is consistent with those accounts, and
 - (ii) any such strategic report and the directors' report have been prepared in accordance with applicable legal requirements,
 - (b) state whether, in the light of the knowledge and understanding of the company and its environment obtained in the course of the audit, he has identified material misstatements in the strategic report (if any) and the directors' report, and
 - (c) if applicable, give an indication of the nature of each of the misstatements referred to in paragraph (b).
- (2) Where more than one person is appointed as auditor, the report must include a statement as to whether all the persons appointed agree on the statements and indications given under subsection (1) and, if they cannot agree on those statements and indications, the report must include the opinions of each person appointed and give reasons for the disagreement.
- (3) The auditor, in his report on the company's annual accounts for a relevant financial year, must—
- (a) report to the company's members on any description of -
 - (i) distributable profits;
 - (ii) distributable profits after the application of the net asset restriction;
 - (iii) distributable revenue profits; and
 - (iv) distributable revenue profits after the application of the net asset restriction

which is set out in the statement of distributable profits or the distribution confirmation statement, in accordance with sections 416B and C; and

- (b) state whether in his opinion those statements -
 - (i) have been properly prepared in accordance with this Act; and
 - (ii) are in agreement with the accounting records and returns of the company.

497 Auditor's report on auditable part of directors' remuneration report

(1) If the company is a quoted company or unquoted traded company, the auditor, in his report on the company's annual accounts for the financial year, must—

- (a) report to the company's members on the auditable part of the directors' remuneration report, and
- (b) state whether in his opinion that part of the directors' remuneration report has been properly prepared in accordance with this Act.

(2) For the purposes of this Part, "the auditable part" of a directors' remuneration report is the part identified as such by regulations under section 421.

(3) In this section "unquoted traded company" means a traded company (as defined by section 360C) that is not a quoted company.

497A Auditor's report on separate corporate governance statement

(1) Where the company prepares a separate corporate governance statement in respect of a financial year, the auditor must, in his report of the company's annual accounts for that year—

(a) state whether, in his opinion, based on the work undertaken in the course of the audit, the information given in the statement in compliance with rules 7.2.5 and 7.2.6 in the Disclosure Rules and Transparency Rules sourcebook made by the Financial Conduct Authority (information about internal control and risk management systems in relation to financial reporting processes and about share capital structures)—

- (i) is consistent with those accounts, and
- (ii) has been prepared in accordance with applicable legal requirements,

(b) state whether, in the light of the knowledge and understanding of the company and its environment obtained in the course of the audit, he has identified material misstatements in the information in the statement referred to in paragraph (a),

(c) if applicable, give an indication of the nature of each of the misstatements referred to in paragraph (b), and

(d) state whether, in his opinion, based on the work undertaken in the course of the audit, rules 7.2.2, 7.2.3 and 7.2.7 in the Disclosure Rules and Transparency Rules sourcebook made by the Financial Conduct Authority (information about the company's corporate governance code and practices and about its

administrative, management and supervisory bodies and their committees) have been complied with, if applicable.

(2) Where more than one person is appointed as auditor, the report must include a statement as to whether all the persons appointed agree on the statements and indications given under subsection (1) and, if they cannot agree on those statements and indications, the report must include the opinions of each person appointed and give reasons for the disagreement.