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The Companies (Statutory Audits) Act 2018

The Companies (Statutory Audits) Act 2018 was signed into law on 25th July 2018. It gives effect in primary legislation to the regulation of the profession of statutory auditor and the conduct of statutory audits and is due to be commenced on 21st September 2018.

It amends the Companies Act 2014 to give further effect to Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts as amended by a number of EU Directives and Regulations up to and including EU (Statutory Audits) Regulations 2016 (SI 312 of 2016). It should be noted that the citation of the primary legislation remains "The Companies Act 2014".

As members will be well aware there was an attempt to use this legislation to remove the right to apply to the District Court for an extension of time to file an annual return. This proposed amendment was not accepted, due to our effective lobbying and that right has been retained. When this legislation is commenced, should a company not file on time and not avail of the District Court option it will lose its entitlement to audit exemption for the two financial years immediately succeeding the financial year where they failed to deliver the return on time. Currently the loss of audit exemption impacts the year of late filing and the following year, resulting in the need for a retrospective audit.

The term "public auditor" has been removed from a number of acts, including the Credit Union Act, 1997 the Industrial and Provident Societies Act 1893 and the Friendly Societies Act 1896. The term "statutory auditor" has been inserted in its place and a body corporate may, from the commencement of the Act, audit Industrial & Provident and Friendly Societies.

The Irish Auditing and Accounting Supervisory Authority (IAASA) is designated as the single competent authority with ultimate responsibility for public oversight of audit. However, this Act provides for the allocation of everyday management of some of these tasks to the recognised accountancy bodies (RAB's), including the

approvals, licensing and CPD elements. In addition, the RAB's retain responsibility for quality assurance and investigation and discipline with respect to non-public interest entity (PIE) audits.

IAASA have responsibility for the quality assurance and discipline processes in respect of the audits of PIEs and the power to direct or intervene in how any tasks are performed by a RAB. Section 934F provides that where administrative sanctions have been imposed on a specified person and all rights of appeal have been exhausted or have expired that information, including particulars of the relevant person, will be published on IAASA's website and will remain there for at least 5 years. In addition, where a breach has occurred in relation to the audit of a PIE section 936A requires that IAASA inform the Director of Corporate Enforcement (ODCE) of the details of the matter and provide any assistance reasonably required by the ODCE to decide whether to investigate or impose sanctions on a relevant director.

The 2018 Act will insert a new Part 27, Sections 1461 to 1584, titled "Statutory Audits" into the Principal Act (being the Companies Act 2014). In this new part under section 1469, a person or firm who either describes themselves or holds themselves out to be a statutory auditor or a statutory audit firm when they are not or carries out a statutory audit whilst not appropriately authorised, shall be guilty of a category 2 offence. In section 1486 it is also a category 2 offence to act as, or represent or hold yourself out to be, a person entitled to be entered in the public register (of statutory auditors and audit firms), without being so entitled. By designating these as category 2 offences they carry reporting obligations to the ODCE and they become relevant obligations for the purpose of the directors' compliance statement.

Chapter 15 focuses on the independence and objectivity of the statutory auditor. It covers professional scepticism, prohibited relationships, threats to independence and the internal organisation of the firms. It specifically cautions members of the administrative, management or supervisory body and the owners and shareholders, of a statutory audit firm, or of an affiliated firm, not to intervene in the execution of a statutory audit in any way which jeopardises the independence and objectivity of the statutory auditor who carries out the statutory audit on behalf of the statutory audit firm.

In section 1472 there has been a change to the appropriate qualification necessary to be eligible for approval as a statutory auditor. A recognised accountancy body may exempt in writing a person who has passed a university or equivalent examination or who holds a university degree or equivalent qualification, in one or more of the subjects referred to in the test of theoretical knowledge specified in Schedule 19 of the Act, if the body is satisfied that the passing of that examination or the holding of that university degree or equivalent qualification, renders it unnecessary for the person to undergo that test in so far as those subjects are concerned.

One element of the Act which will not be commenced along with the rest of the provisions in September is the extension of time to file annual returns. When this provision is commenced the number of days to file an annual return and financial statements with the CRO will be extended from not later than 28 days after its effective date to not later than 56 days.

There is currently no proposed date for the commencement of this section.

The Act is designed to enhance the system of public oversight of statutory audits and auditors in the areas of:

- Approval and registration of individuals and firms;
- Adoption of auditing standards;
- Continuing professional development(CPD);
- Quality Assurance inspection regime;
- Investigation and Discipline.

It also introduces some new measures which impact on the internal workings of IAASA and the RABs.

Conclusion

The Act is a further amendment to the Companies Act 2014 and it is hoped that the Law Reform Commission will, as it did for the 2017 amendments, shortly produce an updated administrative consolidation of Companies Act 2014. In the interim the Companies (Statutory Audits) Act 2018 is available on the CPA website in the Members only Technical Resource, Law and Regulation section. It is important to remember that the ability to apply to the District Court for an extension of time to file an annual return currently exists. The extension of days to file an annual return from 28 to 56 days has not yet been applied and has no proposed commencement date. The other provisions mentioned above are expected to be commenced on 21st September 2018.



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