

# AUDITOR CESSATION STATEMENTS

Sections 522 to 525 of the Companies Act 2006 set new requirements for auditors and companies to notify the ‘appropriate audit authority’ when an auditor ceases to hold office. It is important to stress that both auditors and companies need to notify the ‘appropriate audit authority’ and that there are significant differences in the detailed requirements on auditors and on companies.

There are also similar requirements on other entities and these are noted in section 10.

The purpose of this note is to assist firms with these new requirements and similar requirements under other legislation.

Depending on the circumstances, the appropriate audit authority is either the Institute or the Professional Oversight Board. The flowchart in section 1 is to assist firms identify which audit authority is relevant. The Professional Oversight Board has issued similar guidance to this note at <http://www.frc.org.uk/pob/regulation/notification.cfm>. Although this guidance includes extracts of the Professional Oversight Board’s guidance, if necessary that should be referred to.

This note has the following sections:

1	Flowchart of statements required when an auditor ceases to hold office after 6 April 2008 .	2
2	Extracts from the Companies Act 2006.....	3
3	Circumstances and reasons.....	7
4	Term of auditor’s office.....	7
5	Definition of quoted and unquoted .....	8
6	Definition of ‘major audit’ .....	9
7	Contact details for notification .....	10
8	Content of the notification .....	10
9	Timing of the notification .....	11
10	Details of the other entities where notifications are required .....	11
11	Special cases .....	14
	Audit exemption .....	14
	Company ceases to exist.....	14
	Effect of the appointment of a partnership as auditor .....	14

It would be helpful if the auditor reminded the company of its obligations to notify the appropriate audit authority and the information that has to be supplied. A copy of this note, or that issued by the Professional Oversight Board, could also be provided.

Note:

These notes do not deal with the responsibilities of the company or the auditor under sections 520/521 to deal with the statement made by the auditor under s519. However, the text of sections 520/521 is included in part 2 of this note.

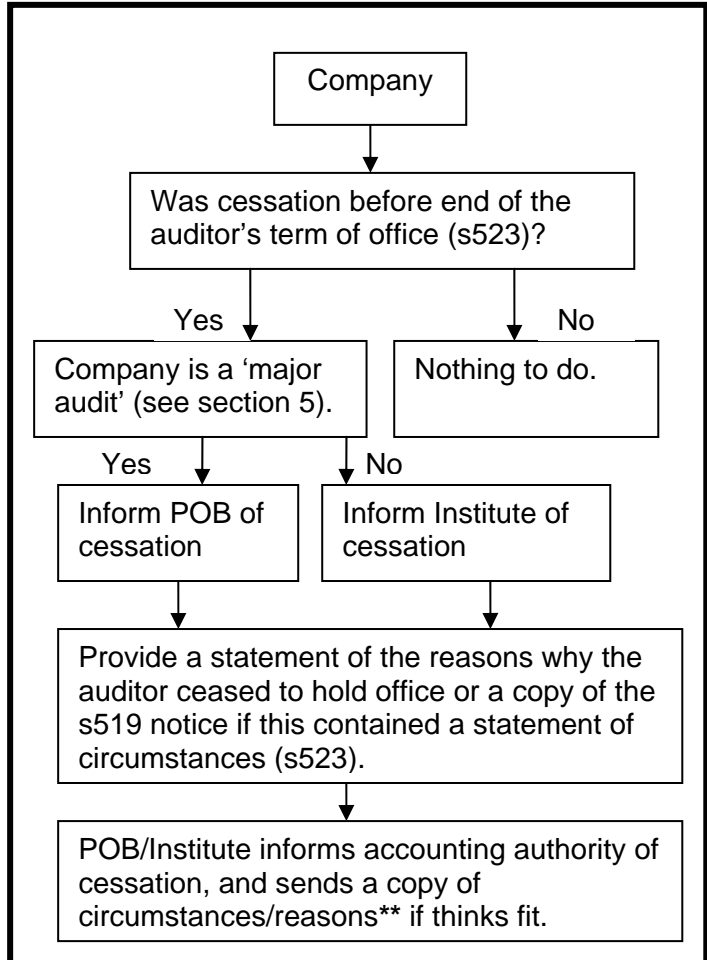
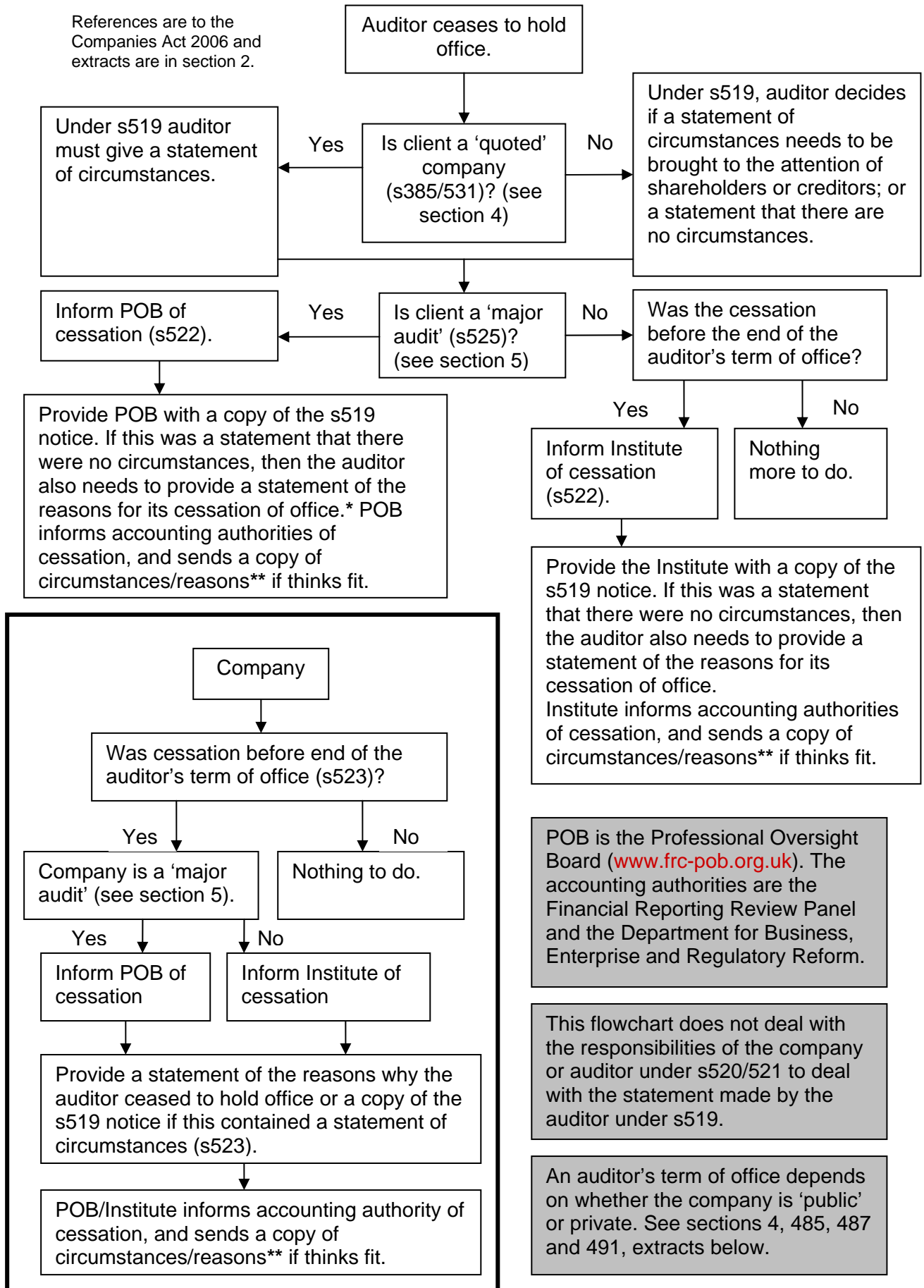
It is likely that this guidance will change over time, for example see the sections on the definition of major audit and other entities where notifications are required. Therefore firms are advised to check this guidance if these aspects are likely to apply to them in the case of a new cessation statement. These different versions will be identified by the date at the end of this page.

This is the sixth version of the note. The change is the addition of commentary on changes of appointment that involve partnerships (section 11).

Version 09/10

# 1 Flowchart of statements required when an auditor ceases to hold office after 6 April 2008

References are to the Companies Act 2006 and extracts are in section 2.



POB is the Professional Oversight Board ([www.frc-pob.org.uk](http://www.frc-pob.org.uk)). The accounting authorities are the Financial Reporting Review Panel and the Department for Business, Enterprise and Regulatory Reform.

This flowchart does not deal with the responsibilities of the company or auditor under s520/521 to deal with the statement made by the auditor under s519.

An auditor's term of office depends on whether the company is 'public' or private. See sections 4, 485, 487 and 491, extracts below.

\*Because the definition of 'major audit' is wider than 'quoted company', the auditor may not have been required to file a statement of circumstances under s519.  
 \*\*For more information about circumstances and reasons see section 3.

## **2 Extracts from the Companies Act 2006**

### **Section 4 Private and public companies**

(1) A “private company” is any company that is not a public company.

(2) A “public company” is a company limited by shares or limited by guarantee and having a share capital—

(a) whose certificate of incorporation states that it is a public company, and

(b) in relation to which the requirements of this Act, or the former Companies Acts, as to registration or re-registration as a public company have been complied with on or after the relevant date.

### **Section 385 Quoted and unquoted companies**

(1) For the purposes of this Part a company is a quoted company in relation to a financial year if it is a quoted company immediately before the end of the accounting reference period by reference to which that financial year was determined.

(2) A “quoted company” means a company whose equity share capital—

(a) has been included in the official list in accordance with the provisions of Part 6 of the Financial Services and Markets Act 2000 (c. 8), or

(b) is officially listed in an EEA State, or

(c) is admitted to dealing on either the New York Stock Exchange or the exchange known as Nasdaq.

(3) An “unquoted company” means a company that is not a quoted company.

### **485 Appointment of auditors of private company: general**

(1) An auditor or auditors of a private company must be appointed for each financial year of the company, unless the directors reasonably resolve otherwise on the ground that audited accounts are unlikely to be required.

(2) For each financial year for which an auditor or auditors is or are to be appointed (other than the company’s first financial year), the appointment must be made before the end of the period of 28 days beginning with—

(a) the end of the time allowed for sending out copies of the company’s annual accounts and reports for the previous financial year (see section 424), or

(b) if earlier, the day on which copies of the company’s annual accounts and reports for the previous financial year are sent out under section 423.

This is the “period for appointing auditors”.

(3) The directors may appoint an auditor or auditors of the company—

(a) at any time before the company’s first period for appointing auditors,

(b) following a period during which the company (being exempt from audit) did not have any auditor, at any time before the company’s next period for appointing auditors, or

(c) to fill a casual vacancy in the office of auditor.

(4) The members may appoint an auditor or auditors by ordinary resolution—

(a) during a period for appointing auditors,

(b) if the company should have appointed an auditor or auditors during a period for appointing auditors but failed to do so, or

(c) where the directors had power to appoint under subsection (3) but have failed to make an appointment.

(5) An auditor or auditors of a private company may only be appointed—

(a) in accordance with this section, or

(b) in accordance with section 486 (default power of Secretary of State).

This is without prejudice to any deemed re-appointment under section 487.

### **Section 487 Term of office of auditors of private company**

(1) An auditor or auditors of a private company hold office in accordance with the terms of their appointment, subject to the requirements that—

- (a) they do not take office until any previous auditor or auditors cease to hold office, and
- (b) they cease to hold office at the end of the next period for appointing auditors unless re-appointed.

(2) Where no auditor has been appointed by the end of the next period for appointing auditors, any auditor in office immediately before that time is deemed to be re-appointed at that time, unless—

- (a) he was appointed by the directors, or
- (b) the company's articles require actual re-appointment, or
- (c) the deemed re-appointment is prevented by the members under section 488, or
- (d) the members have resolved that he should not be re-appointed, or
- (e) the directors have resolved that no auditor or auditors should be appointed for the financial year in question.

### **Section 491 Term of office of auditors of public company**

(1) The auditor or auditors of a public company hold office in accordance with the terms of their appointment, subject to the requirements that—

- (a) they do not take office until the previous auditor or auditors have ceased to hold office, and
- (b) they cease to hold office at the conclusion of the accounts meeting next following their appointment, unless re-appointed.

### **Section 519 Statement by auditor to be deposited with company**

*[In the case of an unquoted company, the auditor first has to decide if a statement is needed.]*

(1) Where an auditor of an unquoted company ceases for any reason to hold office, he must deposit at the company's registered office a statement of the circumstances connected with his ceasing to hold office, unless he considers that there are no circumstances in connection with his ceasing to hold office that need to be brought to the attention of members or creditors of the company.

*[If the auditor decides that no statement of circumstances is needed, he must say so.]*

(2) If he considers that there are no circumstances in connection with his ceasing to hold office that need to be brought to the attention of members or creditors of the company, he must deposit at the company's registered office a statement to that effect.

*[In the case of a quoted company, the auditor has no choice, a statement of circumstances must be given.]*

(3) Where an auditor of a quoted company ceases for any reason to hold office, he must deposit at the company's registered office a statement of the circumstances connected with his ceasing to hold office.

*[The next sub-section sets out the timing of the notifications.]*

(4) The statement required by this section must be deposited—

- (a) in the case of resignation, along with the notice of resignation;
- (b) in the case of failure to seek re-appointment, not less than 14 days before the end of the time allowed for next appointing an auditor;
- (c) in any other case, not later than the end of the period of 14 days beginning with the date on which he ceases to hold office.

(5) A person ceasing to hold office as auditor who fails to comply with this section

### **520 Company's duties in relation to statement**

*[This section sets out what the company has to do with the statement received from the auditor under section 519.]*

(1) This section applies where the statement deposited under section 519 states the circumstances connected with the auditor's ceasing to hold office.

- (2) The company must within 14 days of the deposit of the statement either—  
(a) send a copy of it to every person who under section 423 is entitled to be sent copies of the accounts, or  
(b) apply to the court.
- (3) If it applies to the court, the company must notify the auditor of the application.
- (4) If the court is satisfied that the auditor is using the provisions of section 519 to secure needless publicity for defamatory matter—  
(a) it shall direct that copies of the statement need not be sent out, and  
(b) it may further order the company's costs (in Scotland, expenses) on the application to be paid in whole or in part by the auditor, even if he is not a party to the application.  
The company must within 14 days of the court's decision send to the persons mentioned in subsection (2)(a) a statement setting out the effect of the order.
- (5) If no such direction is made the company must send copies of the statement to the persons mentioned in subsection (2)(a) within 14 days of the court's decision or, as the case may be, of the discontinuance of the proceedings.
- (6) In the event of default in complying with this section an offence is committed by every officer of the company who is in default.
- (7) In proceedings for such an offence it is a defence for the person charged to show that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.
- (8) 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.

### **521 Copy of statement to be sent to registrar**

*[This section sets out what the auditor then has to do with his statement made under section 519.]*

- (1) Unless within 21 days beginning with the day on which he deposited the statement under section 519 the auditor receives notice of an application to the court under section 520, he must within a further seven days send a copy of the statement to the registrar.
- (2) If an application to the court is made under section 520 and the auditor subsequently receives notice under subsection (5) of that section, he must within seven days of receiving the notice send a copy of the statement to the registrar.
- (3) An auditor who fails to comply with subsection (1) or (2) commits an offence.
- (4) In proceedings for such an offence it is a defence for the person charged to show that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.
- (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.

### **Section 522 Duty of auditor to notify appropriate audit authority**

*[The next section sets out the cases in which a notification is required. In case of a major audit, notification is required regardless of the reason or timing of the cessation. In other cases, notification is only required if the cessation occurs other than at the normal ending of the auditor's term of office. ]*

- (1) Where—  
(a) in the case of a major audit, an auditor ceases for any reason to hold office, or  
(b) in the case of an audit that is not a major audit, an auditor ceases to hold office before the end of his term of office, the auditor ceasing to hold office must notify the appropriate audit authority.

*[The next section sets out the contents of the notification.]*

- (2) The notice must—
- (a) inform the appropriate audit authority that he has ceased to hold office, and
  - (b) be accompanied by a copy of the statement deposited by him at the company's registered office in accordance with section 519.

*[If, under s519, the auditor decided that there were no circumstances that needed to be brought to the attention of the members or creditors, he has to supply the reasons for the cessation. See section 3 of this note for a discussion on this point.]*

- (3) If the statement so deposited is to the effect that he considers that there are no circumstances in connection with his ceasing to hold office that need to be brought to the attention of members or creditors of the company, the notice must also be accompanied by a statement of the reasons for his ceasing to hold office.

*[The next section sets out the timing of the notification.]*

- (4) The auditor must comply with this section—
- (a) in the case of a major audit, at the same time as he deposits a statement at the company's registered office in accordance with section 519;
  - (b) in the case of an audit that is not a major audit, at such time (not being earlier than the time mentioned in paragraph (a)) as the appropriate audit authority may require.

### **Section 523 Duty of company to notify appropriate audit authority**

*[This section sets out when the company has to send a notification, only if the auditor appointment ceased before the normal end of the term.]*

- (1) Where an auditor ceases to hold office before the end of his term of office, the company must notify the appropriate audit authority.

*[The next section sets out the contents of the notification. The company either has to send the statement of circumstances received from the auditor, a statement of its reasons for the cessation.]*

- (2) The notice must—
- (a) inform the appropriate audit authority that the auditor has ceased to hold office, and
  - (b) be accompanied by—
    - (i) a statement by the company of the reasons for his ceasing to hold office, or
    - (ii) if the copy of the statement deposited by the auditor at the company's registered office in accordance with section 519 contains a statement of circumstances in connection with his ceasing to hold office that need to be brought to the attention of members or creditors of the company, a copy of that statement.

*[The next section sets out the timing of the notification.]*

- (3) The company must give notice under this section not later than 14 days after the date on which the auditor's statement is deposited at the company's registered office in accordance with section 519.

### **Section 525 Meaning of "appropriate audit authority" and "major audit"**

*[The next section sets out who is the 'appropriate audit authority'. For a major audit it is the POB (being the body to which the Secretary of State has delegated his functions and for other audits it is the Institute that registers the audit firm.)*

- (1) In sections 522, 523 and 524 "appropriate audit authority" means—
- (a) in the case of a major audit—
    - (i) the Secretary of State, or
    - (ii) if the Secretary of State has delegated functions under section 1252 to a body whose functions include receiving the notice in question, that body;
  - (b) in the case of an audit that is not a major audit, the relevant supervisory body.
- "Supervisory body" has the same meaning as in Part 42 (statutory auditors) (see section 1217).

*[The next section defines a 'major audit'.]*

(2) In sections 522 and this section "major audit" means a statutory audit conducted in respect of—

- (a) a company any of whose securities have been admitted to the official list (within the meaning of Part 6 of the Financial Services and Markets Act 2000 (c. 8)), or
- (b) any other person in whose financial condition there is a major public interest.

*[The next section allows the POB to issue guidance on what is a major public interest audit. It has done so and see section 4 of this note for details of that guidance.]*

(3) In determining whether an audit is a major audit within subsection (2)(b), regard shall be had to any guidance issued by any of the authorities mentioned in subsection (1).

### **Section 531 Meaning of "quoted company"**

(1) ..... a company is a quoted company if it is a quoted company in accordance with section 385 (see above) in relation to the financial year to which the accounts to be laid at the next accounts meeting relate.

## **3 Circumstances and reasons**

The new requirements raise a question about the definition of **circumstances** and **reasons**.

Under the previous Companies Act, an auditor had to consider if there were any **circumstances** connected with his ceasing to hold office that the auditor had to tell the shareholders or creditors about. If there were, these were included in a statement from the auditor which the company had to circulate to shareholders etc. Or the auditor decided that there were no such circumstances and made a statement to that effect.

The new Act requires, in the case of a quoted company, that there must always be a statement of circumstances, even if in the past the auditor may have decided that there was nothing he wanted to say. So now, for a quoted company, the statement of circumstances may deal with a matter that an auditor would have previously commented on (eg some concern over the actions of the directors) or it may be about something that may not have been mentioned in the past (eg the auditor had not won a tender for the audit). It is this statement that has to be submitted under s522 (2b) to the appropriate audit authority.

For unquoted companies, the auditor still has the option of deciding if there is a matter that needs to be drawn to the attention of the shareholders or creditors or if there are no such matters. If there are no such matters, there will always be a **reason** for the change of auditor. For example, the company has been taken over and the new parent company is installing its auditor in place of the existing auditor. It is this reason that has to be disclosed to the audit authority in the statement required under s522(3). A copy of the 'no circumstances' statement made under s519 also has to be sent (s522(2b)).

## **4 Term of auditor's office**

A key issue in deciding whether cessation statements have to be sent to the audit authorities is whether the cessation occurred before the end of the auditor's normal term of office. The following notes aim to assist firms in deciding what is the relevant term of office. You may still need to refer to the underlying legislation (only some of which is included in section 2 of this note). The notes only apply to companies, and not the other entities in section 10 of this note where generally the definition of the auditor's term of office is much clearer.

An auditor who resigns under section 516 of the Companies Act 2006, or who is removed by a resolution of the members under section 510 ceases to hold office as set out in his notice or the resolution. When the auditor's term of office has ended before the normal term, cessation statements to the audit authorities will be required (see the flow chart in section 1).

If the auditor does not resign or is not removed, then consideration needs to be given to what is the term of office of the auditor. This differs depending on whether the company is a public or private company.

### **Term of office of an auditor of a public company**

This is fairly simple and is set out in s491 of the Companies Act (see section 2 of this note). An auditor of a public company ceases to hold office at the conclusion of the next accounts meeting following their appointment, unless re-appointed. If the cessation is not at the end of the auditor's term whether a cessation statement is then required is driven by whether the company is a major audit, see the flow chart in section 1.

### **Term of office of an auditor of a private company**

This is more complicated as there are now deemed reappointment procedures in the Act (see section 487(2) of the Act in section 2 of this note). An auditor ceases to hold office at the end of the 'next period for appointing auditors'.

The 'next period for appointing auditors' is fixed by section 485. It is a period of 28 days starting at:

- the end of the period allowed for sending out accounts which is the date for filing accounts with the registrar, ie, normally 9 months after the end of the accounting period; or
- if earlier, the date on which the company's accounts are sent out under section 423 to its shareholders.

If no 'new' auditor is appointed by this date, the 'old' auditor is deemed to be reappointed.

However, there cannot be a deemed reappointment in the following circumstances (details of which are set out in section 487(2)):

- the auditor was appointed by the directors;
- the company's articles require actual re-appointment;
- enough members have given notice to the company under section 488 to stop the deemed reappointment;
- there has been a resolution that the auditor should not be reappointed; or
- the directors decide that they do not need an auditor for the following year.

In these cases there would need to be a positive reappointment by the company's members and, if the existing auditor is not reappointed, his term of office will have come to an end at the end of the 'next period for appointing auditors'.

Alternatively the auditor may not seek reappointment at the end of his term of office and his current term of office will end at the end of the 'next period for appointing auditors'.

If the auditor's appointment does end at the end of the 'next period for appointing auditors' then notification letters to the audit authorities will not be required (but remember, they are required for 'major' audits regardless of when the term of office ceases, see the flow chart in section 1).

An example may help.

A company's year end is 31 December, so it has to file accounts with the registrar by 1 October of the following year. 1 October then becomes the start date for the period for appointing auditors and it ends 28 days later on 28 October. Alternatively, the company sends out its accounts to its shareholders (under s423) on 1 July. This then becomes the start date for the period for appointing auditors (not 1 October) and it ends 28 days later on 28 July.

Depending on which 28-day period happens in practice, if the auditor is not reappointed or does not seek reappointment, he ceases to hold office at the end of his term, ie, either 28 October or 28 July.

## **5 Definition of quoted and unquoted**

An unquoted company is any company that is not a quoted company.

However, identifying a quoted company may be somewhat difficult as the definitions in the Companies Act 2006 that are noted in the flow chart and set out in section 2, do not apply to the section of the Act that deals with resignation statements. So effectively for that section there is no definition that can be used.

The key point is that a quoted company is one whose equity share capital (this is part of the definition in s385) is included in the 'official list' within the meaning of part 6 of the Financial Services and Markets Act 2000 – ie the main London Stock Exchange (not AIM), a similar EEA stock exchange, the New York Stock Exchange or the American NASDAQ exchange. Sections 385 and 531 then amend that definition for the purposes of the parts of the Act that they relate to, so a company could still be regarded as quoted under s385 or s531, even if it was no longer listed on the Stock Exchange.

As sections s385 and s531 are for different purposes, we suggest that firms simply take the view that if the company was on the official list etc on the day of the audit cessation, then the company is a quoted company for the purposes of the flowchart and cessation statements.

## **6 Definition of 'major audit'**

Section 525(3) provides that the Professional Oversight Board (POB) may issue guidance on what is meant by a 'major audit' for resignation statement notification purposes. The full text of the guidance can be viewed at <http://www.frc.org.uk/pob/regulation/notification.cfm> but the following is a summary.

POB has generally followed, where possible, the scope of inspections by the POB's Audit Inspection Unit in relation to companies, though there are some important differences that are explained below.

For the avoidance of doubt, companies incorporated in the Crown Dependencies (Guernsey, Isle of Man, Jersey) are not UK incorporated companies.

- 10.1 All UK incorporated companies with equity and/or debt securities admitted to the official list (within the meaning of part 6 of the Financial Services and Markets Act 2000) on the date on which the auditor ceases to hold office. Where the listed equity or listed debt has been issued by a separate entity within a group structure, the audit of the any group accounts including the entity should be considered as a major audit. This matches the AIU scope.
- 10.2 All UK incorporated companies listed on the AIM or Plus markets on the date on which the auditor ceases to hold office. This is wider than the AIU scope which is restricted to such companies with a market capitalisation in excess of £100million. POB concluded that for the purpose of the notification requirement it is more appropriate to use a simpler requirement and so included all such companies.
- 10.3 Unquoted companies, which have either:
  - a) group turnover in excess of £500million; or
  - b) group long term debt in excess of £250million and turnover in excess of £100million.
- 10.4 This matches the AIU scope. The requirement to notify POB applies to companies whose auditor ceases to hold office and the above criteria are shown as exceeded by last set of audited accounts. This category is intended to include companies or groups of companies that are privately owned, whether directly or through another UK or overseas investment vehicle, or trust. It is also intended to include those companies owned by private equity funds or other institutions. It is not intended to include subsidiaries of any other category in this list.
- 10.5 Unquoted companies or groups which are subsidiaries of foreign parent companies where the turnover of the UK group or company is in excess of £1,000million. This category is intended to cover major subsidiaries of overseas groups. If there are a number of separate subsidiaries trading in the UK and no UK group consolidated accounts are produced, this measure should be applied on an individual company basis. This matches the AIU scope. The requirement to notify POB applies to companies whose auditor ceases to hold office and the above criteria are shown as exceeded by last set of audited accounts.

10.6 Charitable companies with income exceeding £100million. This matches the AIU scope. The requirement to notify POB applies to charitable companies whose auditor ceases to hold office and the above criteria is shown as exceeded by the last set of audited accounts.

10.7 Subsidiary companies of the above. Subsidiary undertakings of any of the above companies should be treated as “major audits” for this purpose. This avoids the need in the case of groups to notify different audit authorities in respect of different companies in the group.

## 7 Contact details for notification

Notifications can be sent by letter or e-mail as follows:

If the notification is to the Institute:	If the notification is to the POB:
Change of Auditor Notifications Quality Assurance Department ICAEW Metropolitan House 321 Avebury Boulevard Milton Keynes MK9 2FZ	Change of Auditor Notifications Professional Oversight Board 5 <sup>th</sup> Floor, Aldwych House London WC2B 4HN
By e-mail to <a href="mailto:auditorchange@icaew.com">auditorchange@icaew.com</a>	By e-mail to <a href="mailto:auditorchange@frc-pob.org.uk">auditorchange@frc-pob.org.uk</a>

## 8 Content of the notification

There is no statutory format for notifying a change of auditor to the Institute. However, it should be clear, whether this is sent electronically or by post, who has signed the notification, and in what capacity, giving contact details in case of a query. If the notification is by e-mail this should be in the form of an electronic copy of a letter, with contact details.

The notification by the auditor must:

- be of the fact of the cessation
- include a copy of the s519 notice (whether or not this was a statement of circumstances)
- include a statement of the reasons for the cessation, if the statement of circumstances was a ‘nil’ return.

It would also be useful if the notification gave the following additional information:

- the date of the last financial statements on which the auditor reported;
- the registered number of the company
- the address of the registered office of the company.

If notification by the company is required (see the flowchart in section 1) the following information has to be supplied:

- the fact of the cessation; and
- a statement by the company of the reasons for the auditor ceasing to hold office; or
- if the statement by the auditors deposited at the company’s registered office in accordance with s519 contains a statement of circumstances in connection with the auditor’s ceasing to hold office that need to be brought to the attention of members or creditors, a copy of that statement.

In the case of a group of companies, where the auditor of the parent company and of the subsidiary companies are the same and cease the appointments at the same time, the auditor and the companies can meet their obligations by a single statement accompanied by a list of the companies to which it applies, which should also explain if different reasons for the cessations apply for the different companies.

The APB has issued guidance ([Bulletin 2008/9, Miscellaneous Reports by Auditors Required by the United Kingdom Companies Act 2006](#)) on the contents of the notifications to the company about the cessation.

## 9 Timing of the notification

If the notification has to be made to the Institute:

- It is assumed that the auditors will want to notify the Institute at the same time as they deposit the s519 statement at the company's registered office, so that the matter is dealt with. Otherwise, notification can be made at any time but at the latest it must be made with the annual return covering the period in which the cessation took place.
- The company must notify the Institute not later than 14 days after the date on which the auditor's statement has been deposited at the company's registered office.

If the notification has to be made to the POB:

- The auditors must notify the POB at the same time as they deposit the s519 statement at the company's registered office.
- The company must notify the POB not later than 14 days after the date on which the auditor's statement has been deposited at the company's registered office.

## 10 Details of the other entities where notifications are required

Other auditor resignation statements are required from entities listed in s1210 of the Companies Act 2006. The following is a summary of the requirements but auditors should consult the relevant statutory instrument (SI) to determine the exact entities to which the requirements apply and the statements that have to be made. As with companies, what the auditor has to do is often different to what the entity has to do.

Also, the start date for these entities is different to that for companies. Whereas for companies the new requirements applied to any cessation after 6 April 2008, for the following entities (except where noted), the cessation has to be in respect of a financial year that starts on or after that date (or such other date as is noted below). The effect is as follows:

- if an auditor resigns after 6 April 2008 but during an accounting period that started before 6 April 2008, then the new requirements do not apply.
- if an auditor resigns after 6 April 2008 during an accounting period that started after 6 April 2008, then the new requirements do apply.

### 10.1 Banks (under the Banks Accounts Directive (Miscellaneous Banks) Regulations 2008 SI 567))

- Under regulation 11 the auditor must notify the 'appropriate audit authority' if he ceases to hold office for any reason, either at the same time the auditor deposits his notice of resignation with the bank or otherwise within 14 days of the cessation. If the auditor has resigned, the notification must be accompanied by any copy of any notice of resignation and his statement of reasons for resigning.
- Under regulation 12 the bank has to notify the 'appropriate audit authority' if the auditor ceases to hold office before end of his term, within 14 days of the cessation. If the bank has to make a notification, then it should be accompanied by a statement of the bank's reasons for the cessation or if the auditor has resigned and he gave the bank a statement of his reasons for resigning, a copy of that statement.
- The 'appropriate audit authority' is defined as the POB.
- Effective for financial years starting on or after 6 April 2008.

### 10.2 Insurers (under the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008 SI 565)

- Under regulation 10 the auditor has to notify the 'appropriate audit authority' if he ceases to hold office for any reason, either at the same time the auditor deposits his notice of resignation with the bank or otherwise within 14 days of the cessation. If the auditor has

resigned, the notification must be accompanied by any copy of any notice of resignation and his statement of reasons for resigning.

- Under regulation 11 the insurer has to notify the 'appropriate audit authority' if the auditor ceases to hold office before end of his term, within 14 days of the cessation. If the insurer has to make a notification, then it should be accompanied by a statement of the insurer's reasons for the cessation or if the auditor has resigned and he gave the insurer a statement of his reasons for resigning, a copy of that statement.
- The 'appropriate audit authority' is defined as the POB.
- Effective for financial years starting on or after 6 April 2008.

#### 10.3 Partnerships (under the Partnerships(Accounts) Regulations 2008 SI 569)

These are partnerships where all the partners are companies or Scottish partnerships and in the latter case, each partner in the partnership is a limited company.

- Under regulation 12 the auditor has to notify the 'supervisory body' if he ceases to hold office before end of his term, within 14 days of the cessation. The notification must be accompanied by a statement of any circumstance connected with the cessation.
- Under regulation 13 the partnership has to notify the supervisory body if the auditor ceases to hold office before end of his term, within 14 days of the cessation. The notification must be accompanied by a statement from the partnership of the reasons for the cessation.
- The supervisory authority is the Institute and the regulations do not give us any flexibility to vary the timing of the notification.
- Effective for financial years starting on or after 6 April 2008.

#### 10.4 Building societies (under the Building Societies Act 1986 (Accounts, Audit and EEA State Amendments) Order 2008 SI 1519)

This SI amends schedule 11 of the Building Societies Act 1986 by inserting new paragraphs relating to the cessation of audit appointments.

- Under paragraph 8A the auditor has to notify the 'appropriate audit authority' if he ceases to hold office for any reason, either at the same time the auditor deposits his notice of resignation with the building society or otherwise within 14 days of the cessation. If the auditor has resigned, the notification must be accompanied by any copy of any notice of resignation. The notice must also be accompanied a statement of the reasons for the auditor ceasing to hold office unless the auditor resigned and his notice of resignation contained a statement made under paragraph 7(2b) of schedule 11.
- Under paragraph 8B the building society has to notify the 'appropriate audit authority' if the auditor ceases to hold office before end of his term, within 14 days of the cessation. If the building society has to make a notification, then it should be accompanied by a statement of the building society's reasons for the cessation or if the auditor has resigned and his notice of resignation contained a statement under paragraph 7(2b) of schedule 11, a copy of that statement.
- The 'appropriate audit authority' is defined as the POB.
- Effective for financial years starting on or after 29 June 2008.

#### 10.5 Friendly societies (under the Friendly Societies Act 1992 (Accounts, Audit and EEA State Amendments) Order 2008 SI 1140)

This SI amends the Friendly Societies Act 1992 by inserting new paragraphs relating to the cessation of audit appointments.

- Under new paragraph 15A the auditor has to notify the 'appropriate audit authority' if he ceases to hold office for any reason, at the same time the auditor deposits his notice of at the friendly society. If the notice deposited with the society was to the effect that there were no circumstances that need notification to the society's members or creditors, the notification must be accompanied a statement of the reasons for the auditor ceasing to hold office.
- Under new paragraph 15B the friendly society has to notify the 'appropriate audit authority' if the auditor ceases to hold office before end of his term, within 14 days of the

cessation. If the friendly society has to make a notification, then it should be accompanied by a statement of the friendly society's reasons for the cessation or if the auditor has given a statement of circumstances that need to be notified to the society's members or creditors, a copy of that statement.

- The 'appropriate audit authority' is defined as the POB.
- Effective for financial years starting on or after 29 June 2008.

#### 10.6 Lloyds syndicates (under The Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2008 SI 1950)

This SI replaces the similar regulations issued in 2004.

- Under paragraph 17 the auditor has to notify the 'appropriate audit authority' if he ceases to hold office before the end of his term of office (which is defined in paragraph 15), at the same time the auditor resigns or within 14 days in any other case. The notification must be accompanied a statement of the reasons for the auditor ceasing to hold office.
- Under paragraph 18 the managing agent has to notify the 'appropriate audit authority' if the auditor ceases to hold office before end of his term, within 14 days of the cessation or resignation. The notification must be accompanied by a statement of the managing agent's reasons for the cessation.
- Note, the above paragraphs are in Part 5 of schedule 1 of the SI.
- The 'appropriate audit authority' is defined as the POB.
- Effective for financial years starting on or after 1 January 2009.

#### 10.7 Limited liability partnerships (under The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 SI 1911)

This SI replaces the provisions of the Limited Liability Partnerships Regulations 2001 and of the Limited Liability Partnerships Regulations (Northern Ireland) 2004.

- Paragraph 46 applies the relevant sections of the Companies Act 2006 to limited liability partnerships. Although there are modifications, the effect is that cessations in audit appointments for LLPs follow the same process as for companies. Thus much of the law in section 2 of this note and the flowchart are equally applicable to LLPs
- The 'appropriate audit authority' is defined as the POB or the registering Institute of the firm, depending on whether the LLP is classed as 'major' or not.
- Unlike the other entities listed above, the effective date is any cessation of office on or after 1 October 2008.

## 11 Special cases

### Audit exemption

When a company takes advantage of audit exemption, whether or not notifications are required depends on the circumstances.

If the auditor stays in office, then no notification is required to the 'appropriate audit authority' by either the auditor (under s522) or the company (under s523), since the office of auditor has not ceased. If the audit firm stays in office but does not undertake an annual audit the audit firm must still ensure that the relevant re-appointment procedures are followed to retain office, eg under s485. When the office does finally cease, then notification by the auditor may be required and the flowchart in section 1 should be consulted.

If the auditor does not stay in office, then notification by the auditor may be required. In the case of a 'non-major' company, notification is required if the office does not cease at the end of the term of office. It may be the case that the company decides to take advantage of audit exemption but the auditor stays in office until the end of his term and then resigns. No notification is then required. For a major audit, notification is required regardless of the timing of the cessation. Notification is only required by the company if the office does not cease at the end of the auditor's term of office.

### Company ceases to exist

A company may cease to exist because it is dissolved under s1000 of the Companies Act 2006 by the companies' registrar or the company is dissolved following its liquidation. In such cases, notices under s522 and s523 are not needed. However, if the auditor ceases to hold office prior to the dissolution (perhaps in anticipation of the company's liquidation), then the usual notification requirements apply (see flowchart in section 1).

### Effect of the appointment of a partnership as auditor

Section 1216 provides that in certain situations when a partnership ceases, the audit appointment extends to the firm that succeeds to the partnership. Where the conditions of s1216 are met, there is no need to file auditor cessation statements. However, depending on how the succession is affected, the 'new' firm may have to obtain the permission of the company to extend the audit appointment.

The most common situation when s1216 may be applicable is when a partnership incorporates or merges with another firm.