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**Bille na gCuideachtaí (Iniúchtaí Reachtúla), 2017**  
**Companies (Statutory Audits) Bill 2017**

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*Meabhrán Mínitheach*  
*Explanatory Memorandum*

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**EXPLANATORY MEMORANDUM**

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***Purpose of the Bill***

The purpose of this Bill is to further transpose discretionary elements of the Audit Directive 2014/56/EU, to give effect to some elements of Regulation EU No. 537/2014, to elevate SI 312 of 2016 to primary legislation and to replace the outdated term public auditor with statutory auditor.

***Provisions of the Bill***

The Companies (Statutory Audits) Bill 2017 amends the Companies Act 2014. The Bill will amend provisions within Parts 6 and 15, entitled “Financial Statements, Annual Return and Audit” and “Functions of Registrar and of Regulatory and Advisory Bodies” respectively. The Bill also introduces a new stand-alone Part 27 into the Companies Act 2014 to provide for statutory audit related matters. The Bill will also provide for miscellaneous company law issues, not related to the transposition of the audit measures.

**PART 1**

**PRELIMINARY AND GENERAL**

This Part contains standard provisions and the necessary interpretations for the Bill.

***Section 1*** contains the short title and commencement arrangements.

***Section 2*** contains definitions for “Principal Act”.

***Section 3*** contains repeals and revocations.

**PART 2**

**AMENDMENT OF PRINCIPAL ACT**

***Section 4*** amends *section 2* of the Companies Act 2014: *Interpretation generally*. It deletes the definition of ‘2016 Audits Regulations’ and inserts a new definition for (i) ‘statutory auditor’, meaning an individual or a firm approved under Part 27 and (ii) ‘public interest entity’ as defined in Part 27.

***Section 5*** amends *section 35* of the Companies Act 2014: *Authorisation of an electronic filing agent*. It amends the cross-references to electronic

filing agents to reflect the revocation of the 2016 Audits Regulations and their replacement with the relevant provisions of the Bill.

**Section 6** amends *section 322* of the Companies Act 2014: *Disclosure of remuneration for audit, audit-related and non-audit work*. It amends the cross-references relating to statutory auditors to reflect the revocation of the 2016 Audits Regulations and their replacement with the relevant provisions of the Bill.

**Section 7** amends *section 336* of the Companies Act 2014: *Statutory auditors' report on statutory financial statements*. It inserts a new subsection which permits the Irish Auditing and Accounting Supervisory Authority (IAASA) to lay down additional requirements, in the context of the auditing standards, in relation to the content of the audit report.

**Section 8** amends *section 337* of the Companies Act 2014: *Signature of statutory auditor's report*. It amends the cross-references relating to statutory auditor/statutory audit firm to reflect the revocation of the 2016 Audits Regulations and their replacement with the relevant provisions of the Bill.

**Section 9** amends *section 343* of the Companies Act 2014: *Obligation to make annual return*. It deletes subsection (7) such that section 343 only applies to the High Court.

**Section 10** inserts *section 343A* in the Companies Act 2014: *Provisions supplementary to section 343*. This section applies to the District Court. It permits the District Court to waive the fees required by the Registrar for the delivery of a late annual return.

**Section 11** amends *section 380* of the Companies Act 2014: *Statutory auditors – general provisions (including as to the interpretation of provisions providing for auditors' term of office)*. It amends the cross-references relating to a person becoming disqualified from holding office to reflect the revocation of the 2016 Audits Regulations and their replacement with the relevant provisions of the Bill. It also inserts a new subsection (6) which prohibits and makes void a contractual clause that restricts the choice of statutory auditor for appointment to carry out the statutory audit of a company.

**Section 12** amends *section 390* of the Companies Act 2014: *Obligation to act with professional integrity*. It amends the cross-references relating to professional integrity of statutory auditors to reflect the revocation of the 2016 Audits Regulations and their replacement with the relevant provisions of the Bill.

**Section 13** amends *section 394* of the Companies Act 2014: *Removal of statutory auditors: general meeting*. It amends the cross-references relating to removal/nomination of a statutory auditor to reflect the revocation of the 2016 Audits Regulations and their replacement with the relevant provisions of the Bill.

**Section 14** amends *section 865* of the Companies Act 2014: *Summary prosecutions*. It amends subsection (2)(r) to allow the insertion of new provisions from Part 27 which may be subject to summary prosecutions by the Registrar of Companies.

**Section 15** amends *section 869* of the Companies Act 2014: *Offences by body committed with consent of its officer*. It inserts 'Part 27' in subsection (1) and (2) to provide that where an offence is committed under that Part, the person responsible as well as the body corporate will be guilty and liable to be prosecuted.

**Section 16** inserts *section 889A* of the Companies Act 2014: *Function imposed on Registrar under section 930D*. Section 889A refers to section 930D regarding conflicts of interests to be avoided by the Registrar in the performance of his/her functions.

**Section 17** amends *section 900* of the Companies Act 2014: *Interpretation*. It amends the definitions by (i) substituting the definition for ‘recognised accountancy body’, (ii) inserting a number of new definitions and (iii) deleting subsection (3) which is no longer required.

**Section 18** amends *section 904* of the Companies Act 2014: *Objects of Supervisory Authority*. It substitutes subsection (1)(e) with new text, removing references to the 2016 Audits Regulations and Regulation (EU) No 537/2014.

**Section 19** amends *section 905* of the Companies Act 2014: *Functions of Supervisory Authority*. It updates the provisions to reflect the revocation of the 2016 Audits Regulations and their replacement with the relevant provisions of the Bill. Paragraphs (h) and (l) are deleted as these are no longer required. It inserts provisions which (i) allow IAASA to enquire into a recognised accountancy body’s performance of Part 27 functions and to impose a sanction for non-performance, (ii) allow IAASA to investigate possible contraventions by a statutory auditor of certain provisions of the Bill and to impose sanctions for contraventions committed, and (iii) allow the recognised accountancy bodies to perform functions listed under paragraph (n), i.e. approvals, registration, continuing education, quality assurance and investigations, as appropriate.

**Section 20** amends *section 906* of the Companies Act 2014: *General powers*. It amends IAASA’s powers in relation to applying to the court for certain orders. It adds to subsection (4)(c) by requiring a recognised accountancy body to comply with a section 931 notice and a relevant body to comply with a section 934A(2) or 934C(5) direction by IAASA. It adds ‘notice or direction’ to the term ‘obligation or obligations’. It updates the reference in subsection (5)(c) to reflect the revocation of the 2016 Audits Regulations and their replacement with the relevant provisions of the Bill.

**Section 21** amends *section 907* of the Companies Act 2014: *Board of directors*. It specifies that a person appointed by the Minister as a director will be knowledgeable in ‘at least one area’ rather than ‘areas’ relevant to the conduct of statutory audits. It also amends cross-references relating to statutory audits to reflect the revocation of the 2016 Audits Regulations and their replacement with the relevant provisions of the Bill.

**Section 22** amends *section 915* of the Companies Act 2014: *Application of money received by Supervisory Authority*. It inserts a new subsection (3) to permit IAASA to use money received under section 934C(2)(g) only for the purposes of investigating relevant contraventions by statutory auditors.

**Section 23** amends *section 916* of the Companies Act 2014: *Supervisory Authority may levy prescribed accountancy bodies*. It inserts a new subsection (8) which permits IAASA to use levies imposed on recognised accountancy bodies for the purposes of meeting expenses for performing its functions under section 905(2)(ma) with regard to adopting auditing standards.

**Section 24** amends *section 918* of the Companies Act 2014: *Funding in respect of functions of Supervisory Authority under certain regulations*. It substitutes subsection (3) to permit IAASA to use money received under this section only for the purpose of meeting expenses for performing its functions regarding statutory auditors/audit firms of public interest entities.

**Section 25** amends *section 919* of the Companies Act 2014: *Reserve fund*. It replaces subsection (4)(c) and (d) in order to update the section references for the purposes of the Bill. Subsection (6) is deleted.

**Section 26** amends *section 930* of the Companies Act 2014: *Recognition of body of accountants*. It substitutes subsection (1) to update the grounds on which IAASA may grant recognition to a body of accountants, i.e. standards relating to training, qualifications and repute applied for the purposes of approval as a statutory auditor; standards applied to members in the area of ethics etc.; effective enforcement of standards on members; and performance of Part 27 functions by the body. A new subsection (1A) is added which requires a recognised accountancy body to only perform a Part 27 function where the body's recognition states it. Subsection (2) is amended to provide that the recognition already granted has stated that each body may perform each of the Part 27 functions. New subsections (3) and (4) are inserted which require a body of accountants to meet the grounds for recognition for the duration of the recognition and a body may request IAASA to revoke its recognition.

**Section 27** inserts *section 930A* in the Companies Act 2014: *Designation of competent authority*. Section 930A designates IAASA as the competent authority for the oversight of statutory auditors. IAASA is also designated as the competent authority for the public oversight, quality assurance (if applicable), investigations and penalties of specific third country auditors/audit entities. The Director of Corporate Enforcement is designated as the competent authority for the purpose of imposing sanctions on directors. IAASA is required to publish on its website information on the designation arrangements.

**Section 27** also inserts *section 930B* in the Companies Act 2014: *Annual audit programme and activity report*. Section 930B provides for the preparation of an annual audit programme and activity report by IAASA on its oversight functions and activities, to be completed no later than 6 months after the end of each financial year and published on its website. The report must contain information on the functions performed by the recognised accountancy bodies. It must also include a report on the overall results of the quality assurance system put in place by IAASA.

**Section 27** also inserts *section 930C* in the Companies Act 2014: *Operation of certain provisions with regard to particular recognised accountancy bodies*. Section 930C provides that the functions of a recognised accountancy body apply to a member statutory auditor/audit firm. The functions apply to an individual or firm who is a member of a body within the meaning of section 1464 (Applications for approval, general principle as to good repute, etc.). Also, any requirement on a person in relation to a recognised accountancy body relates to persons who are members of the body. These functions along with those applying to an auditor/audit firm who is not a member of a recognised accountancy body will be determined by arrangements amongst the bodies concerned, having consulted with IAASA or, in default situations, by IAASA. Where withdrawal of approval of a statutory auditor/audit firm is proposed by a recognised accountancy body which did not give the approval, sufficient co-operation will take place between the bodies and withdrawal of approval will be notified to the body which gave approval.

**Section 27** also inserts *section 930D* in the Companies Act 2014: *Conflicts of interest to be avoided*. Section 930D provides that conflicts of interest be avoided between all the authorities and bodies performing functions under the Bill.

**Section 28** substitutes *section 931* of the Companies Act 2014: *Provisions in relation to recognition by Supervisory Authority under section 930*. Section 931 applies at the time of the grant of recognition or during the currency of the recognition by IAASA to a body of accountants. IAASA may direct the body to take actions or attach terms and conditions in the recognition notice. The notice may be revoked or suspended and fair procedures will apply in such an instance. A recognition notice may direct a body to cease or to commence performing a Part 27 function and to attach terms and conditions to the performance of such a function. IAASA may publish on its website information on a recognition notice and the body's response (if any). A disciplinary committee of a body, believing that a person while a member of the body committed an offence, will provide a report on the matter to the Director of Corporate Enforcement and failure to do so is a category 3 offence (person is liable, on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months or both). Transitional provisions are provided for any terms and conditions that apply to a recognised accountancy body under this section.

**Section 29** amends *section 931A* of the Companies Act 2014: *Investigation by disciplinary committees of prescribed accountancy bodies*. Section 931A substitutes the definition of 'relevant person' for the purposes of an investigation of a member or former member of a recognised accountancy body.

**Section 30** inserts *section 931B* in the Companies Act 2014: *Provisions that apply when recognised accountancy body is not able to perform Part 27 function*. Section 931B defines recognised accountancy body A and B, relevant members and relevant Part 27 function. IAASA will perform the relevant Part 27 function until it gives a section 931 notice to 'body A' or 'body B'. Any obligations owed to body A regarding relevant Part 27 functions are owed to IAASA or body B, as appropriate. Any costs incurred will be defrayed by body A or IAASA by means of money received under section 916. In this regard, IAASA may prescribe by regulations the procedures involved. Where recognition is revoked, no obligation is owed to a statutory auditor of body A by IAASA or another body. Body A may appeal the costs determined by IAASA to be paid and this must be brought within 3 months of the determination.

**Section 31** amends *section 932* of the Companies Act 2014: *Consultation by Supervisory Authority regarding standards and qualifications*. Section 932 is substituted to reflect the revocation of the 2016 Audits Regulations and their replacement with the relevant provisions of the Bill. It also deletes the term 'public auditor' from this section.

**Section 32** amends *section 933* of the Companies Act 2014: *Intervention in disciplinary process of prescribed accountancy bodies and supervision of recognised accountancy bodies*. Section 933 is substituted to permit IAASA to use its enquiry powers in relation to the supervision of prescribed accountancy bodies. It includes a definition for 'relevant body' to mean a prescribed body or a recognised body. It gives IAASA specific power to enquire into a recognised body's performance of its Part 27 functions, including an investigation of one of its members. It adds that where IAASA is not satisfied about the compliance of a body with its functions it may direct that the function be performed again or in future performance to meet the terms and conditions considered appropriate. The appeal period under subsection (10) against a decision of IAASA is now specified as within 3 months of notification of the decision. The section gives IAASA the power to undertake an enquiry into two or more matters concerning the same body of accountants where such matters fall within subsections (2) and (3).

**Section 33** inserts *section 933A* in the Companies Act 2014: *Resolution of suspected non-compliance by agreement – relevant body*. Section 933A provides for IAASA and a relevant body to enter into an agreement to resolve matters of non-compliance by the body. The agreement may be entered into (i) prior to any enquiry into non-compliance, (ii) after an enquiry has commenced but not completed or (iii) the enquiry has been undertaken and sanctions have been determined. The terms of the agreement may include imposition of sanctions on the body and payment of costs for the enquiry where commenced. The terms of the agreement are binding on IAASA and the body concerned. Where the terms are not upheld by the body, IAASA may apply to the court to compel compliance. IAASA may publish section 933A agreements on its website.

**Section 34** amends *section 934* of the Companies Act 2014: *Investigation of possible breaches of standards of prescribed accountancy bodies or relevant contraventions by statutory auditors*. Section 934 is substituted to provide IAASA with the power to investigate simultaneously, if required, an individual who is a member of a prescribed accountancy body and a statutory auditor. IAASA may undertake an investigation into a relevant contravention by a specified person, following a complaint or on its own initiative, and where it is in the public interest to do so. IAASA may impose a relevant sanction on the person. Costs will be defrayed by the prescribed accountancy body of which the person is a member or by the person themselves. In this context, IAASA may prescribe by regulations the procedures involved. An appeal may be brought within 3 months of being notified of the decision by IAASA. The section gives IAASA the power to undertake an investigation into two or more possible contraventions committed by the same person where such contraventions fall within paragraphs (a) and (b) of the definition of relevant contravention.

**Section 35** inserts *section 934A* in the Companies Act 2014: *Supplemental provisions to section 934 – certain specified persons* (see definition for specified person in section 17). Section 934A enables IAASA to direct the prescribed accountancy body of which the specified person is a member to take any necessary action as a result of the sanction imposed on the person. IAASA will provide the relevant body with all the relevant details of any decision to impose a sanction on a member of that body.

**Section 35** inserts *section 934B* in the Companies Act 2014: *Immediate action required to protect public*. Section 934B provides that IAASA may make an *ex parte* application to the court to ban a specified person from carrying out statutory audits or signing statutory auditors' reports where it believes that the breach committed warrants such protection of the public.

**Section 35** inserts *section 934C* in the Companies Act 2014: *Sanctions which Supervisory Authority may impose on statutory auditor for relevant contravention*. Section 934C provides that IAASA may impose on the specified person (auditor/audit firm) one or more sanctions for a relevant contravention under section 934(9). These include – direction to cease particular conduct or remediate conduct; reprimand; declaration against statutory auditors' report; banning from carrying out statutory audits or signing statutory audit reports; to pay a fine; and excluding particulars being entered in the public register. Where applicable, IAASA will direct the recognised accountancy body of which the person is a member to take any necessary action as a result of the sanction imposed on the person. IAASA will provide the body with all the relevant details of its decision.

**Section 35** inserts *section 934D* in the Companies Act 2014: *Relevant circumstances to be considered in imposing relevant sanctions on specified person*. Section 934D provides that where IAASA is imposing



an administrative sanction on a specified person, it shall consider a range of circumstances such as gravity and duration of breach; degree of responsibility; financial position; level of co-operation with IAASA and previous breach committed.

**Section 35** inserts *section 934E* in the Companies Act 2014: *Resolution of suspected relevant contravention by agreement – specified person*. Section 934E provides for IAASA and a specified person to enter into an agreement to resolve the matters of contravention by the person. The agreement may be entered into (i) where no investigation of a contravention has taken place, (ii) after an investigation has commenced but not completed or (iii) the investigation has been undertaken and sanctions have been determined. The terms of the agreement may include imposition of sanctions on the person and payment of costs for the investigation where commenced. The terms of the agreement are binding on IAASA and the person concerned. Where the terms are not upheld by the person, IAASA may apply to the court to compel compliance.

**Section 35** inserts *section 934F* in the Companies Act 2014: *Publication of relevant sanction imposed on specified person, etc*. Section 934F provides for the publication of information regarding administrative sanctions on a specified person on IAASA's website, once all rights of appeal have been exhausted or have expired. Information on the status or outcome of an appeal may be published. IAASA will also publish information on an anonymous basis due to issues of (i) proportionality, (ii) impact on financial markets stability, and (iii) ongoing criminal investigation. Information published must remain on IAASA's website for at least 5 years.

**Section 35** inserts *section 934G* in the Companies Act 2014: *Limitations on imposing monetary sanctions on specified person*. Section 934G limits the monetary sanction that IAASA may impose on a specified person so that they are not likely to cease business or be made bankrupt. It provides that only one monetary sanction may be imposed where more than 2 breaches of the same conduct have occurred.

**Section 35** inserts *section 934H* in the Companies Act 2014: *Specified person not to be liable to be penalised twice for same relevant contravention*. Section 934H provides that where a specified person's breach attracts a monetary sanction by IAASA and it is also an offence under the law of the State, no punishment/prosecution under law will be incurred. Likewise, IAASA will not impose a monetary sanction where the person has been charged for committing the offence under law.

**Section 35** inserts *section 934I* in the Companies Act 2014: *Reporting of relevant contraventions*. Section 934I provides that IAASA and the recognised accountancy bodies will establish mechanisms to facilitate reporting of breaches. These mechanisms will include specific procedures for receipt of reports and for the protection of personal data of both the person reporting and being reported about. An audit firm must also establish procedures for its employees to report breaches internally.

**Section 36** amends *section 935* of the Companies Act 2014: *Supplementary provisions in relation to section 934*. It amends the cross-references to reflect the revocation of the 2016 Audits Regulations and their replacement with the relevant provisions of the Bill.

**Section 37** inserts *section 936A* in the Companies Act 2014: *Supplemental provisions in relation to section 934 – relevant directors*. Section 936A provides that where a specified person has committed a breach or has entered into an agreement with IAASA regarding a breach and the breach relates to the audit of a public interest entity, IAASA will

inform the Director of Corporate Enforcement of the details of the matter and provide any assistance to the Director for the purposes of investigating or imposing a sanction or both on a relevant director.

**Section 37** inserts *section 936B* in the Companies Act 2014: *Communication with the CEAOB*. Section 936B provides that IAASA must communicate immediately any direction given by it under specific sections to the CEAOB. At the end of each year, it will provide information on all sanctions imposed by it on a specified person (auditor/audit firm) and those that are published. It will also provide information on all sanctions imposed by the Director of Corporate Enforcement and those that are published.

**Section 38** amends *section 937* of the Companies Act 2014: *Delegation of Supervisory Authority's functions*. It includes references to further sections for the purposes of delegation functions to a committee established for such functions. It inserts a new subsection (3A) to permit IAASA to delegate specific functions to any of its officers, employees or other authorised persons.

**Section 39** amends *section 938* of the Companies Act 2014: *Hearings, privileges and procedural rules*. It removes references to some sections for the purposes of conducting oral hearings and enquiries as these have been repealed. It inserts a new subsection (6) which requires IAASA to publish regulations made under subsection (4) on its website. It inserts a new subsection (7) which provides that information given by a person may be used in evidence against them except for proceedings for an offence. It inserts a new subsection (8) which prevents a decision of IAASA being a bar to any civil or criminal proceedings against the person.

**Section 40** amends *section 940* of the Companies Act 2014: *Confidentiality of information*. It inserts a new subsection (5) which requires IAASA to comply with its obligations under the relevant provisions irrespective of this section.

**Section 41** amends *section 941* of the Companies Act 2014: *Appeals to and orders of the court, including orders confirming decisions of Supervisory Authority*. It amends references to reflect the new investigation procedures. Two additional paragraphs are added to subsection (6) regarding orders compelling compliance, to include a section 931 notice and a direction under section 934A(2) or 934C(5). It adds subsections (7), (8) and (9) to allow the court to make an order or give a direction under specific sections as appropriate.

**Section 42** amends *section 942* of the Companies Act 2014: *Liability of Supervisory Authority for acts, omissions, etc*. It deletes subsection (2) and makes consequential changes to subsection (4)(b).

**Section 43** amends *section 943* of the Companies Act 2014: *Minister's power to make regulation for purposes of Chapter, etc*. It amends references to sections in subsection (1)(e) and (f).

**Section 44** amends *section 949* of the Companies Act 2014: *Functions of Director*. It inserts a new subsection (1A) which refers to sections 930A and 930D re additional provisions for the functions of the Director, in particular.

**Section 45** inserts *section 957A* in the Companies Act 2014: *Definitions (sections 957A to 957I)*. Section 957A inserts definitions for the purposes of this section to section 957I, concerning sanctions on directors.

**Section 45** inserts *section 957B* in the Companies Act 2014: *Provisions applicable where Director receives particulars, etc., from Supervisory Authority concerning relevant contravention and relevant director*. Section

957B provides that the Director of Corporate Enforcement will investigate a relevant director having received information from IAASA. The Director may impose a sanction where a breach has been committed by the director. An appeal to the court may be made against such a decision within 3 months. Information on the sanction imposed will be given by the Director to IAASA. Civil or criminal proceedings can still apply to a director subject to sanction.

**Section 45** inserts *section 957C* in the Companies Act 2014: *Sanctions which Director may impose on relevant director for certain conduct*. Section 957C provides that the Director may direct a director to cease conduct that has given rise to a breach; ban from performing functions in audit firms or public interest entities; or pay a monetary sanction.

**Section 45** inserts *section 957D* in the Companies Act 2014: *Relevant circumstances to be considered in imposing relevant sanctions on relevant director*. Section 957D provides for the Director imposing a sanction on a director to consider a range of circumstances such as gravity and duration of the breach; degree of responsibility; financial position; level of co-operation with IAASA or the Director and previous sanctions imposed.

**Section 45** inserts *section 957E* in the Companies Act 2014: *Resolution of suspected certain conduct by agreement – relevant director*. Section 957E provides that the Director and a director may enter into an agreement to resolve the matters breached by the director. The agreement may be entered into (i) where no investigation of conduct has taken place, (ii) after an investigation has commenced but not completed or (iii) the investigation has been undertaken and sanctions have been determined. The terms of the agreement may include imposition of sanctions on the relevant director. The terms of the agreement are binding on the Director and the relevant director concerned. Where the terms are not upheld by the director, the Director may apply to the court to compel compliance.

**Section 45** inserts *section 957F* in the Companies Act 2014: *Publication of relevant sanction imposed on relevant director*. Section 957F provides for the publication of the sanction on a relevant director on the Director's website, where the court has confirmed the decision or imposed a different sanction. Information on the status or outcome of an appeal may also be published. The Director will publish information on an anonymous basis due to issues of (i) proportionality, (ii) impact on financial markets stability, and (iii) ongoing criminal investigation. Information in relation to subsection (1) and (2) must remain on the Director's website for at least 5 years. The Director will give particulars of the sanction imposed to IAASA.

**Section 45** inserts *section 957G* in the Companies Act 2014: *Limitations on imposing monetary sanctions on relevant director*. Section 957G provides that the Director may not impose on a director a monetary sanction that would make them bankrupt. Only one monetary sanction may be imposed where more than 2 breaches of the same conduct have occurred.

**Section 45** inserts *section 957H* in the Companies Act 2014: *Relevant director not to be liable to be penalised twice for same conduct*. Section 957H provides that where a relevant director's breach attracts a monetary sanction by the Director and it is also an offence under the law of the State, no punishment/prosecution under law will incur. Likewise, the Director will not impose a monetary sanction where the director has been charged for committing an offence under law.

**Section 45** inserts *section 957I* in the Companies Act 2014: *Appeals to and orders of court, including orders confirming decisions of Director*. Section 957I provides that in the circumstances of an appeal of a decision

by the Director, the court may confirm, modify or annul the decision. The decision does not take effect until confirmed by the court on appeal by a director or application by the Director.

**Section 46** amends *section 1097* of the Companies Act 2014: *Application of section 167 to PLC that is not a public-interest entity*. It amends cross-references to reflect the revocation of the 2016 Audits Regulations and their replacement with the relevant provisions of the Bill.

**Section 47** amends *section 1291* of the Companies Act 2014: *Particular requirements for re-registration of company as a PLC*. It amends a reference in subsection (1)(a)(iv).

**Section 48** amends *section 1305* of the Companies Act 2014: *Accounting documents to be filed by non-EEA company*. It amends cross-references to reflect the revocation of the 2016 Audits Regulations and their replacement with the relevant provisions of the Bill.

**Section 49** amends *section 1401A* of the Companies Act 2014: *Filing of financial statements by investment companies*. It amends a reference in subsection (4).

**Section 50** amends *section 1438* of the Companies Act 2014: *Audit of Comptroller and Auditor General of companies not trading for gain*. It inserts a reference to the new Part 27 in subsection (3).

**Section 51** amends the Companies Act 2014 by inserting Part 27: Statutory audits.

#### **Part 27**

*Section 1461* contains definitions for Part 27 of the Act.

*Section 1462* makes the required savings provisions for the 2016 Audits Regulations.

*Section 1463* provides that Part 27 applies to the conduct of statutory audits for financial years commencing on or after the date referred to in section 1462(1) and for other matters on and from that date.

*Section 1464* provides that applications for approval of statutory auditors or audit firms are made to a relevant recognised accountancy body. Approval is granted to individuals or firms on the basis of good repute. A third country auditor may be granted approval as a statutory auditor. Where an applicant is a Member State auditor or audit firm, good repute is presumed unless the counterpart authority in the Member State has indicated otherwise to IAASA or the recognised accountancy body. On approval as an auditor or audit firm, an individual identification number will be assigned to the person by the recognised accountancy body and a record of all numbers will be maintained by it.

*Section 1465* provides that an audit firm approved in another Member State may be recognised for the purposes of carrying out a statutory audit in the State where the key audit partner, who carries out the audits, is an approved statutory auditor in the State. The audit firm must register with a recognised accountancy body. The recognised accountancy body will register the audit firm where it is satisfied that it is registered with the counterpart authority in the home Member State and it will inform the latter regarding registration in the State. The recognised accountancy body will assign an individual identification number to the firm and maintain a record of all such numbers. Where an audit firm approved in the State registers with a counterpart authority in a host Member State and IAASA or a recognised accountancy body is notified of the fact, the information must be recorded in the public register.

*Section 1466* provides that statutory audits must only be carried out by approved auditors, approved audit firms or registered audit firms under section 1465.

*Section 1467* provides that any auditor must be approved as a statutory auditor before he or she purports to be one.

*Section 1468* provides that any firm must be approved as a statutory audit firm before he or she purports to be one.

*Section 1469* provides that breaches of sections 1466, 1467 or 1468 carry a category 2 offence (person is liable (a) on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both, or (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both).

*Section 1470* provides that for a person to be approved as a statutory auditor, they must be a member of a recognised accountancy body and have the appropriate qualifications, a Member State auditor having passed the aptitude test in section 1476 or a third country auditor having passed that aptitude test and meeting the requirements under Chapter 20.

*Section 1471* provides for transitional provisions to be applicable to certain deemed approvals of a person/firm as a statutory auditor/statutory audit firm respectively under the 2016 Audit Regulations.

*Section 1472* provides for the type of qualification that must be held by a person who wants to be approved as a statutory auditor. The qualification is granted by a recognised accountancy body, whose standards for training and qualifications meet those set out in Schedule 19. The qualification permits an auditor to undertake an audit required by European Union law, i.e. a statutory audit. The recognised accountancy body may exempt the auditor from the required qualification if it is satisfied that the obtaining of an equivalent qualification is sufficient. IAASA will issue guidelines in this regard.

*Section 1473* applies to audit firms, including a Member State audit firm which is not seeking registration under section 1465. It sets out the conditions in which a firm can be approved as a statutory audit firm – (a) individuals who carry out audits on behalf of the firm are approved as statutory auditors, (b) the majority of voting rights are held by individuals eligible for approval as a statutory auditor or audit firms approved as statutory audit firms and (c) the majority of the administrative/management body of the firm are as at (b) above. The ‘majority’ in (b) and (c) may be a combination of auditors or audit firms. Where there are only two members one of the members must meet the conditions of (c) above.

*Section 1474* provides that the Director of Corporate Enforcement may demand evidence of the approval of a person as a statutory auditor or audit firm or, where applicable, registration, and where such evidence is not produced within 30 days of the request, it is a category 3 offence.

*Section 1475* provides that certain evidence may be produced in court to demonstrate that a person is not approved to act as a statutory auditor. Timeframes apply for producing evidence and for challenging it.

*Section 1476* provides that an aptitude test must be passed by any auditor outside the State who wishes to operate as a statutory auditor in the State unless they have otherwise satisfied a recognised accountancy body of the level of knowledge required. IAASA will issue guidelines in this regard. A recognised accountancy body may charge a fee, as specified by the Minister, to cover the administrative costs of the aptitude test.

*Section 1477* provides for the scope of the aptitude test, including the auditor's adequate knowledge regarding statutory audits. The content of the aptitude test will be decided by a recognised accountancy body, with the approval of IAASA. Any alterations to the content of the test must be approved by IAASA.

*Section 1478* provides for the standards that must be applied by a recognised accountancy body in the administration of the aptitude test and that these will first be approved by IAASA.

*Section 1479* sets out the grounds and procedures for mandatory withdrawal of approval in the case of statutory auditors. This is where good repute has been seriously compromised, i.e. cases of professional misconduct or want of professional skill. A recognised accountancy body will withdraw an approval of an auditor if it can conclude that (a) the auditor's good repute is seriously compromised; or (b) the auditor no longer qualifies under section 1470 (Conditions for approval as a statutory auditor); or (c) in the case of individually authorised auditors under section 1471(1), the auditor no longer qualifies under section 1470(a), is not registered as a statutory auditor in the public register or is not subject to the regulation of a body. A recognised accountancy body may act through its disciplinary committee. Where the body is satisfied that it should withdraw approval, it should serve a notice in writing on the auditor to include the steps to be taken to rectify its behaviour or other conditions and the specified time period for compliance. If these conditions are not met in the time period, approval will be withdrawn. Some of these procedures may be circumvented where the body has the opinion that the public interest would be better served without them. A withdrawal may be suspended until appeal procedures are exhausted, the appeal is withdrawn or the time period for appeal elapses. In certain circumstances an auditor may have recourse to the High Court to suspend the withdrawal notice pending the conclusion of internal appeal procedures where the decision of the disciplinary committee of the recognised accountancy bodies does not provide for a suspension of the withdrawal notice. The appellate committee can decide to follow the procedure set out in section 1479(5) and (6) in dealing with the appeal. The bodies will ensure appeals are dealt with promptly without avoidable delays. Where a body has made a final decision to withdraw the approval of an auditor, the auditor may apply to the High Court for an order suspending the operation of the withdrawal pending the determination by the High Court of an appeal. The court may suspend the withdrawal or not. It may also attach conditions such as requiring the auditor not to carry out statutory audits save under the supervision of another statutory auditor or not to carry out such audits save in specified circumstances. The court may, on application to it by the auditor or the body concerned, vary or discharge an order if it considers it just to do so. The court will have regard to the strength of the case of the auditor and the public interest in ensuring the minimum disruption consistent with law of the discharge of the body of its functions.

*Section 1480* set out the grounds and procedures for mandatory withdrawal of approval in the case of statutory audit firms. This is where good repute has been seriously compromised, i.e. cases of professional misconduct or want of professional skill. A body will withdraw an approval of an audit firm if it can conclude that (a) the audit firm's good repute is seriously compromised; or (b) the audit firm no longer qualifies under section 1473(2); or (c) the particular audit firm no longer qualifies under section 1473(2)(a). A recognised accountancy body may act through its disciplinary committee. Where the body is satisfied that it should withdraw approval, it should serve a notice in writing on the audit firm to include

the steps to be taken to rectify its behaviour or other conditions and the specified time period for compliance. If these conditions are not met in the time period, approval will be withdrawn. Some of these procedures may be circumvented where the body has the opinion that the public interest would be better served without them. A withdrawal may be suspended until appeal procedures are exhausted, the appeal is withdrawn or the time period for appeal elapses. In certain circumstances an audit firm may have recourse to the High Court to suspend the withdrawal notice pending the conclusion of internal appeal procedures where the decision of the disciplinary committee of the recognised accountancy bodies does not provide for a suspension of the withdrawal notice. The appellate committee can decide to follow the procedure set out in section 1480(5) and (6) in dealing with the appeal. The bodies will ensure appeals are dealt with promptly without avoidable delays. Where a body has made a final decision to withdraw the approval of an audit firm, the audit firm may apply to the High Court for an order suspending the operation of the withdrawal pending the determination by the High Court of an appeal. The court may suspend the withdrawal or not. It may also attach conditions such as requiring the audit firm not to carry out statutory audits save under the supervision of another statutory auditor or not to carry out such audits save in specified circumstances. The court may, on application to it by the audit firm or the body concerned, vary or discharge an order if it considers it just to do so. The court will have regard to the strength of the case of the audit firm and the public interest in ensuring the minimum disruption consistent with law of the discharge of the body of its functions.

*Section 1481* provides for an appeal process to the High Court in the case of withdrawal of approval. A person may appeal to the High Court against the decision of a recognised accountancy body to withdraw approval of a statutory auditor or audit firm. It will not be made until the internal appeal procedures of the body have been exhausted. Appeals must be made within one month. The court may cancel or confirm the withdrawal of approval. The court may hear evidence in the appeal that was not made previously to the body. The body must notify the outcome of an appeal to IAASA, the Registrar of Companies and, where relevant, the competent authorities in relevant Member States.

*Section 1482* provides that where a recognised accountancy body withdraws approval from a statutory auditor or audit firm, IAASA and the Registrar of Companies should be informed of the fact and the reasons for it within one month.

*Section 1483* provides that where the approval of a statutory auditor or audit firm is withdrawn the recognised accountancy body in question shall notify the relevant competent authorities of the host Member States where the statutory auditor is also approved. In the case of an audit firm, notification by the body will be given where the audit firm is also registered. Where IAASA has withdrawn approval from a statutory auditor or audit firm it shall be responsible for the notifications required. Notifications must be made within one month after the date of withdrawal of approval.

*Section 1484* provides for the Registrar of Companies to maintain a register to contain information as specified at Schedule 20 and sets out that (i) statutory auditors and audit firms, (ii) third country auditors and audit entities and (iii) audit firms approved in another Member State but registered through a body here, should be on the public register. Transitional provisions apply.

*Section 1485* provides that the public register should contain a series of information regarding an approved statutory auditor/audit firm, Member

State auditor or third country auditor. This should include the name and address of the recognised accountancy body (counterpart authority or IAASA, where applicable) responsible for regulation of that auditor or audit firm. The information is communicated by the auditor or audit firm to the approving recognised accountancy body (counterpart authority or IAASA, where applicable) who in turn, having verified it, notifies it to the Registrar. Each statutory auditor/audit firm, Member State audit firm or third country auditor is identified by an individual number on the public register provided by the approving recognised accountancy body (counterpart authority or IAASA, where applicable). Where the recognition of a body is revoked, its members are no longer registered as statutory auditors.

*Section 1486* provides that a person must only act or represent themselves or hold themselves out as being a person entered or entitled to be entered in the register, otherwise they are guilty of a category 2 offence.

*Section 1487* provides that a statutory auditor, audit firm or Member State auditor must notify a change in information in the register relating to them within one month of the event, otherwise they commit a category 4 offence (person is liable, on summary conviction, to a class A fine). The recognised accountancy body will notify this information to the Registrar as soon as possible. The Registrar will amend the register within one month of receipt of this information.

*Section 1488* provides that information submitted by a statutory auditor or audit firm for the purposes of placing it on the register, must be signed and that an electronic signature may suffice. Not to do so is a category 4 offence.

*Section 1489* provides that a condition of the statutory auditor's approval is that they take part in appropriate programmes of continuing education in order to maintain their theoretical knowledge, professional skills and values at a sufficiently high level. IAASA will issue guidelines to the recognised accountancy bodies regarding compliance with this condition.

*Section 1490* provides that the recognised accountancy bodies shall subject statutory auditors and audit firms to the principles of professional ethics.

*Section 1491* provides that statutory auditors and audit firms are subject to independence, objectivity and professional scepticism requirements as set out in sections 1533 to 1544 and 1547.

*Section 1492* provides that the recognised accountancy bodies put in place adequate standards to ensure that auditors and audit firms comply with the requirements governing continuing education, professional ethics and scepticism and independence and objectivity. The bodies will put in place arrangements for monitoring and enforcing compliance with the standards and ensure that they are first approved by IAASA.

*Section 1493* provides that the recognised accountancy bodies must put in place sanctions as part of the enforcement of the standards in section 1501. The sanctions must include withdrawal of approval, penalties, disciplinary measures and regulatory sanctions. Information relating to sanctions and penalties imposed must be made publicly available.

*Section 1494* provides that IAASA put in place a quality assurance system for statutory audit of public-interest entities and that it will also set up a quality assurance system for third-country auditors/audit entities. The quality assurance system set up by the recognised accountancy bodies will not apply to the statutory audit of public interest entities. IAASA may publish findings/conclusions of inspections from a quality assurance review on its website.



*Section 1495* provides that IAASA will oversee the quality assurance system put in place by the recognised accountancy bodies. Such a system will cover the bodies' member activities as statutory auditors and audit firms of non-public interest entities. It will also cover persons who are not members of a body but to whom the body may perform functions under the Bill.

*Section 1496* provides for a recognised accountancy body to organise its quality assurance system for non-public interest entities and sets out the criteria which must be met in relation to quality assurance systems for statutory audit. The system must be independent, adequately resourced and funding must be secure and free from undue influence. Persons who carry out reviews must be appropriately qualified and experienced. The review includes - compliance with auditing standards, quality/quantity of resources spent, audit fees charged and internal quality control system of the audit firm, unless otherwise agreed with IAASA. Each review concludes with a written report containing the main conclusions, it must take place every 6 years and be appropriate and proportionate. Statutory auditors and audit firms must seek to implement the recommendations from the review within a reasonable period and disciplinary action may be taken where this does not occur. The overall results of reviews by the bodies must be published annually. The section provides that the criteria for the selection of quality assurance reviewers must have regard to their education, experience, training, independence and absence of conflicts of interests. The review shall take account of the fact that the application of auditing standards to smaller undertakings is proportionate. Transitional provisions apply.

*Section 1497* provides that a quality assurance review carried out on a statutory audit firm shall be regarded as a quality assurance review of all statutory auditors carrying out audits on behalf of the firm where it has a common quality assurance policy, complied with by each statutory auditor.

*Section 1498* provides that a recognised accountancy body can take disciplinary actions or impose sanctions on statutory auditors and audit firms and must have procedures in place for this.

*Section 1499* provides that the recognised accountancy body shall put in place procedures and systems of investigations and penalties in respect of its members. The body may not impose a penalty on a statutory auditor or audit firm in the case of a breach relating to an audit of a public interest entity.

*Section 1500* provides that a witness before a recognised accountancy body is entitled to the same immunities as a witness before the High Court. Information of a person which benefits from legal professional privilege will apply under this section. Information given by a person may be used in evidence against them except for proceedings for an offence. A decision made by IAASA is not a bar to any civil or criminal proceedings against the person.

*Section 1501* provides that the recognised accountancy bodies set out in the rules and by-laws for their members the contractual and other arrangements to enable them to impose penalties for failure to carry out audits in line with audit requirements. The penalties should be effective, proportionate and dissuasive. The contractual and other arrangements between the bodies and their members shall comply with the requirements of procedural fairness.

*Section 1502* sets out the procedures a recognised accountancy body must put in place in relation to withdrawal of approval of a statutory auditor or audit firm. Where internal appeal procedures do not exist in a recognised

accountancy body it may act through its disciplinary committee. The body may provide the statutory auditor or audit firm with an opportunity to rectify the matters which have been subject to investigation. The internal appeal procedures will suspend the withdrawal of approval until (i) the period of appeal expires, (ii) the decision to withdraw approval is confirmed or (iii) the appeal is withdrawn. In any case the auditor or audit firm may apply to the High Court to suspend the withdrawal of approval pending an appeal. Recognised accountancy bodies, through their appeal committees, must ensure appeals are heard promptly and expedited without undue delay. Where the body has made a decision to withdraw approval, the statutory auditor or audit firm may apply to the High Court to suspend the withdrawal pending an appeal to the court. The court can suspend the withdrawal or not. IAASA may also appeal if it so wishes. The court can also attach conditions to an order by it such as requiring the auditor or audit firm not to carry out statutory audits except under the supervision of one or more other statutory auditors or audit firms or not to carry out audits except in specified circumstances. The court can vary an order if the auditor or recognised accountancy body makes an application to it and it considers it just to do so. The recognised accountancy body must disclose to the public measures taken or penalties imposed in relation to the statutory auditor or audit firm. The timing and manner of disclosure shall be at the body's discretion. The body shall have criteria to govern such disclosures, which will be subject to approval by IAASA.

*Section 1503* sets out the definitions that apply to Chapter 9 of Part 27 of the Bill.

*Section 1504* provides for certain actions to be taken after a recognised accountancy body has decided that the statutory auditor or audit firm of a public interest entity has committed a breach and any appeal procedures have been completed. The recognised accountancy body will give IAASA the details of the case, copies of relevant documents associated with it and particulars of the penalty proposed. IAASA may seek further information by notice in writing to be complied with within 30 days. Where IAASA is satisfied that a breach has occurred it may impose a sanction on the statutory auditor or audit firm of the public interest entity. IAASA will also give particulars of the sanction imposed to the recognised accountancy body. Where IAASA is not satisfied that a breach has occurred it will notify this fact in writing, and the reasons for it, to the recognised accountancy body.

*Section 1505* provides that the person concerned may appeal against the decision within three months.

*Section 1506* provides for sanctions which IAASA may impose on a specified person, such as (a) ceasing conduct that gave rise to the breach, (b) remediate the conduct, (c) a reprimand or severe reprimand, (d) a declaration that the statutory auditor's report does not meet the necessary requirements, (e) a direction prohibiting the person from carrying out statutory audits or signing statutory auditors' reports, (f) a direction to the firm/officer/member/partner prohibiting performance of functions as an audit firm or in audit firms/public interest entities, (g) a direction to the person to pay a specified amount to IAASA, (h) an order excluding details of the person being entered in the public register in respect of one or more recognised accountancy bodies. IAASA will direct the relevant recognised accountancy body to take any necessary action resulting from the sanction imposed on the person and the body must comply with it.

*Section 1507* provides for the circumstances to be considered by IAASA in imposing a sanction, such as (a) gravity and duration of the breach, (b) degree of responsibility of the person, (c) financial strength of the person,

(d) amount of profits gained or losses avoided by the person, (e) level of cooperation with IAASA or the recognised accountancy body, (f) previous relevant breaches committed.

*Section 1508* provides for publication of details of the sanction imposed on a person once the High Court has confirmed or amended the decision. In the case of an appeal, the status or outcome of the appeal will also be published. The publication of the sanction may be done on an anonymous basis where IAASA considers such publication would be disproportionate, jeopardise the stability of financial markets or an ongoing criminal investigation, or cause disproportionate damage to the person. When particulars are put on the website they must remain there for at least 5 years.

*Section 1509* provides for limitations on monetary sanctions imposed on a person. IAASA may not impose an amount that would cause a person to cease business or to be adjudicated bankrupt. Where there is more than one breach, IAASA will only impose one monetary sanction on the person for the same conduct.

*Section 1510* provides that where IAASA imposes a monetary sanction on a person for a breach which is also an offence against the law, the person will not be punished under the law. Also, IAASA will not impose a monetary sanction for an offence that the person has been charged with having committed under the law.

*Section 1511* provides for an appeals process to the High Court. The High Court may consider all evidence/arguments whether or not considered by IAASA or the recognised accountancy body concerned. The court may make any order or give any direction, including an order confirming/modifying/annulling the decision under appeal. The decision takes effect when the High Court confirms it on appeal or on application by IAASA. Regarding the latter, the court may or may not confirm the decision.

*Section 1512* provides for prohibition of contractual clauses restricting the choice of auditors by companies. It also provides that the requirements for the appointment of statutory auditors and audit firms will apply to undertakings that are not companies. Public interest entities must make a report on the circumstances of any contractual clause arising to IAASA. IAASA may share this report with specified authorities who it considers might have an interest.

*Section 1513* provides for new requirements in relation to the appointment of auditors by public interest entities. It gives effect to Article 16 of the Regulation which sets out procedures to be followed by public interest entities. The audit committee will justify and contain at least two choices for the audit engagement, with a preference for one, in its recommendation to the directors. It sets out that where the entity is exempt from the requirement for an audit committee, these provisions apply to the directors of the entity. The directors shall propose the statutory auditor or audit firm to the general meeting of shareholders with relevant comments. The selection procedures need not apply if they have been carried out in one of the previous nine years and the same auditor was appointed. Where the entity relies on relevant provisions in the Companies Act 2014, it must inform IAASA. Where the auditor has been appointed contrary to the required terms, the appointment will be invalid. The entity must keep records regarding the selection procedures for at least six years, not to do so is a category 4 offence.

*Section 1514* provides that a statutory auditor or audit firm must inform IAASA, within one month, of their first appointment to a public interest

entity. The information must be submitted in the format specified by IAASA. Non-compliance is a category 3 offence.

*Section 1515* provides additional requirements for public interest entities in relation to the removal of statutory auditors. Shareholders representing 5% or more of the voting rights or of the share capital, or IAASA may apply to the court for the removal of the statutory auditor or audit firm. The grounds for such an application to the court must be related to the performance of the auditors and in the best interests of the entity. Such a claim should not include different opinions on accounting, audit or any illegal or improper motive.

*Section 1516* provides that the directors' report under section 325 will include the date of appointment of the public interest entity's statutory auditor or audit firm. Where a public interest entity has sought an extension, as permitted, details of that extension should be set out in the report.

*Section 1517* provides that all information that a statutory auditor or audit firm has access to during the course of an audit is protected by the rules of confidentiality and professional secrecy of the relevant recognised accountancy body. The same applies in respect of a key audit partner of an audit firm approved in another Member State and registered in the State.

*Section 1518* provides the rules of confidentiality continue to apply to the statutory auditor or audit firm when their engagement in the audit has ceased or when they cease to be a statutory auditor or audit firm.

*Section 1519* provides that confidentiality and professional secrecy requirements will not prevent the recognised accountancy body from meeting its obligations under the legislation.

*Section 1520* provides for confidentiality and professional secrecy in the case of the transfer of documents relating to audits (i) where the undertaking is part of a group whose holding undertaking is in a third country if such documentation is necessary for the audit of consolidated financial statements of the holding undertaking or (ii) where the undertaking has issued securities in a third country or that is part of a group issuing consolidated financial statements in a third country, only the audit working papers relating to the audit of that entity may be transferred to the competent authorities in the relevant third country. Data protection law must be complied with in the transfer of information to the group auditor situated in the third country.

*Section 1521* provides that where there is a change in statutory auditor, the former auditor must provide all relevant information of the audited undertaking and the most recent audit of that undertaking to the incoming auditor.

*Section 1522* provides that the recognised accountancy bodies have access to audit documents held by a statutory auditor or audit firm, subject to certain procedures, in performing their tasks. The request will be in writing and may be on foot of a complaint against a statutory auditor or audit firm that a breach has been committed (or similar). A person may be required to attend and explain the contents of the documents. A person who fails to comply with the specified requirements is guilty of a category 3 offence. Also, the recognised accountancy body may apply to the High Court for an order compelling compliance by the person with the specified requirements and it may make an appropriate order.

*Section 1523* provides that IAASA may inspect and make copies of relevant documents held by a recognised accountancy body or relevant person in the context of carrying out its functions or where a complaint has been made. Documents held by employees, former employees, clients or

consultants of the recognised accountancy bodies are also comprehended. An officer or person may be required to attend before IAASA and explain the contents of the documents. A person who fails to comply with the requirements of IAASA is guilty of a category 3 offence.

*Section 1524* provides for the protection of legal professional privilege in the case of disclosure of information.

*Section 1525* provides that there will be no liability for an act (professional or legal duty) carried out by a statutory auditor or audit firm as part of complying with the provisions of the Bill. However, liability for negligence or breach of duty will still apply.

*Section 1526* provides that IAASA will adopt the auditing standards to be applied and statutory auditors and audit firms must carry out statutory audits in accordance with those standards. Where the EU Commission has adopted international auditing standards, statutory audits must be carried out in accordance with those standards. These latter standards may be added to by IAASA in order to give effect to national legal requirements regarding the scope of statutory audits or to add to the credibility of financial statements and such conditions must be communicated to the Commission in a specified timeframe. The auditing standards may be applied in a proportionate way to small undertakings. Standards are defined as standards on professional ethics, internal quality control and auditing standards.

*Section 1527* provides that the group auditor must bear the full responsibility for the audit report in relation to the consolidated financial accounts of a group. Where the parent undertaking of the group is a public interest entity, the group auditor must bear responsibility for the additional requirements to the audit report and the additional report to the audit committee. The group auditor will evaluate and document the audit work performed by other parties to the audit of the group. Where it is not possible to secure the agreement of the auditors concerned to transfer relevant documentation he/she will take appropriate measures in order to form an audit opinion and inform IAASA or the recognised accountancy body where appropriate. He/she will retain documentation relevant to the evaluation and review for the purposes of a quality assurance inspection or an investigation of the audit and make it available to IAASA or the recognised accountancy body where applicable. IAASA may request additional documentation on the audit work performed by a statutory auditor or audit firm for a group audit from the competent authorities of other Member States.

*Section 1528* provides that IAASA may request additional documentation on audits by third country auditors from the relevant third country competent authorities under agreed working arrangements. Where these are not in place the group auditor will ensure delivery of the documents or provide explanations of any legal or other impediments to doing so. The group auditor will retain a copy of such audit documentation and include evidence that appropriate procedures were undertaken in order to gain access to the audit documentation or evidence supporting the existence of non-legal impediments.

*Section 1529* provides for an additional report by the statutory auditor or audit firm carrying out the statutory audit of the public interest entity to be submitted to the audit committee so as to give greater detail on the audit and it will be disclosed to the directors of the entity. Where the audited entity is exempt from the requirement to have an audit committee the additional report shall be submitted to the directors of the entity. IAASA may also set down additional requirements for the content of the additional report for

the purposes of providing further information to the audit committee on the audit work. The audit committee or directors of the entity as applicable, may disclose the additional report to third parties as specified in national law upon request.

*Section 1530* provides that certain reports by statutory auditors or audit firms of public interest entities will be submitted to the Central Bank of Ireland as required under its legislation and otherwise they will be submitted to IAASA. Additional content for the report may be required if it is necessary for effective financial market supervision as provided for in national law.

*Section 1531* provides that the documents referred to must be retained by statutory auditors for 6 years or longer in the case of ongoing investigations for which the documents are relevant.

*Section 1532* provides that without prejudice to the reporting requirements in relation to public interest entities, the scope of the statutory audit does not include an assurance about the future viability of an audited entity or how the directors conduct the affairs of the entity.

*Section 1533* provides for certain independence requirements between the statutory auditor and the audited entity, i.e. anyone involved in the audit will not be involved in the decision making of the entity. Independence must be maintained by the statutory auditor or audit firm in all its relationships that may impact on the audit. The independence requirements must apply during the periods covered by the financial statements to be audited and when the statutory audit is carried out.

*Section 1534* provides for the need for statutory auditors and audit firms to maintain professional scepticism while carrying out audits, irrespective of past experience of honesty and integrity of the audited entity's management.

*Section 1535* sets out certain prohibited relationships between statutory auditors and their audited entities which could undermine the independence of the statutory auditor or audit firm. It provides for a list of persons who may not act as a statutory auditor of an entity.

*Section 1536* provides certain independence requirements for a statutory auditor or audit firm carrying out a statutory audit by prohibiting certain relationships of a financial or beneficial interest which might cause or be perceived to cause a conflict of interest. Soliciting and accepting pecuniary or non-pecuniary gifts is prohibited unless an independent third party would consider their value is trivial.

*Section 1537* provides for independence requirements for a statutory auditor or audit firm carrying out a statutory audit in the context of the merger or acquisition of the audited entity, i.e. within 3 months of same it must terminate any interest or relationships that would compromise its independence.

*Section 1538* provides for documentation in the audit working papers of all significant threats to the independence of the statutory auditor or audit firm including safeguards to mitigate those threats.

*Section 1539* provides for a statutory auditor or audit firm to assess and document certain requirements before accepting or continuing an engagement for a statutory audit.

*Section 1540* sets out the rules regarding non-intervention of owners and shareholders in the execution of a statutory audit.

*Section 1541* sets out the internal organisation of statutory auditors and audit firms in order to reinforce the objective of independence and that appropriate policies and procedures are established. Threats to independence must be managed and arrangements for dealing with and recording instances which seriously impact integrity must be put in place. Policies and procedures must be documented and communicated to employees of the statutory auditor or audit firm as applicable. The statutory auditor or audit firm will consider the scale and complexity of their activities when complying with the organisational requirements and demonstrate to the recognised accountancy body or IAASA that the policies and procedures to achieve compliance are appropriate in this context.

*Section 1542* provides for the organisation of an audit by statutory auditors and audit firms. It provides that an audit firm shall appoint at least one key audit partner for each audit it conducts. It sets out the rules in relation to the adequate resourcing of each audit and in relation to keeping adequate records including breaches of the legislation or requests for external advice. An annual report containing an overview of any measures taken regarding breaches must be prepared and communicated to the management of the audit firm.

*Section 1543* provides for detailed record keeping in relation to client accounts and audit files by statutory auditors and audit firms. Records must include the fees charged for the statutory audit and other services provided in any financial year. Certain records shall be retained for at least 6 years. Records of any complaints against the statutory auditor or audit firm regarding the audit shall be kept.

*Section 1544* provides that a recognised accountancy body shall include in its standards, provisions that fees for statutory audits are not influenced or determined by the provision of other services to the audited entity or are contingent in any other way.

*Section 1545* provides that IAASA may, on application from a statutory auditor or audit firm, grant an exemption on an exceptional basis from the 70% threshold for non-audit services income for a period of up to 2 financial years. Additional information may be sought before a decision is made. All decisions to grant an extension will be published and reasons for refusal to grant extensions will be provided.

*Section 1546* provides for a 5 year limit for the involvement of the key audit partner in the statutory audit of a public interest entity.

*Section 1547* sets out the persons involved in a statutory audit to whom moratorium periods apply in relation to taking up positions in audited undertakings or public interest entities. It sets out the specific positions in the audited entity where these moratoriums apply and the relevant time periods of the moratorium.

*Section 1548* provides that applications for the further extension of the audit engagement may be made to IAASA by a public interest entity on an exceptional basis. The granting of such an extension will not exceed 2 years and may be less. Additional information may be sought before a decision is made. All decisions to grant an extension will be published and reasons for refusal to grant extensions will be provided.

*Section 1549* provides that a statutory auditor/audit firm of a public interest entity must report uncertainties regarding the relevant date of an audit engagement to IAASA, in the form and manner required. It sets out the procedures for the decision-making process to determine the relevant date by IAASA, including a request for additional information and that IAASA will provide reasons for its decision.

*Section 1550* provides that an audit firm may supply specified non-audit services to a public interest entity audit client, where certain conditions are met. The audit committee or the directors of the public interest entity, as applicable, will issue guidelines regarding these services.

*Section 1551* sets out the requirements for public interest entities to have an audit committee and the functions it performs. In general, the directors of each public interest entity are required to establish an audit committee. One member of the committee is required to have competence in accounting and/or auditing and the majority of members must be independent of the audited entity, including the chair. A proposal by the directors regarding the appointment of a statutory auditor or audit firm will be based on a recommendation made to them by the audit committee. The statutory auditor or audit firm will report to the audit committee on key matters arising from the statutory audit of the entity. In particular instances, under the Prospectus Directive, the functions of the audit committee can be performed by the board of directors. Also, an audit committee is not required in instances where a public interest entity is defined as a (i) subsidiary undertaking, (ii) Undertakings for Collective Investment in Transferable Securities (UCITS) or Alternative Investment Funds (AIFs), (iii) issuer of asset backed securities (it must publish a statement with the reasons why an audit committee is not required, otherwise a category 3 offence is committed), (iv) certain credit institutions and (v) certain captive insurance/reinsurance undertakings. The audit committee will (a) inform the directors of the outcome of the statutory audit, (b) monitor the financial reporting process and issue recommendations to the directors, (c) monitor the effectiveness of the internal quality control and risk management systems, (d) monitor the statutory audit of the annual and consolidated financial statements and any findings made by IAASA, (e) monitor the independence of the statutory auditors and provision of non-audit services and (f) recommend the statutory auditor or audit firm to be appointed. The provisions of section 167 will not apply to a public interest entity which is both a UCITS, as defined, and a company.

*Section 1552* provides that IAASA is assigned responsibility for cooperation between public oversight systems at European Union level. IAASA will put in place appropriate mechanisms in this regard.

*Section 1553* provides for co-operation between IAASA and bodies who have duties under the Bill (such as the recognised accountancy bodies and the Registrar of Companies) and other EU Member State counterparts and relevant European Supervisory Authorities. Co-operation applies to providing information, grounds for refusing a request for information, requests for investigations to be carried out and grounds for refusing it.

*Section 1554* sets out that information obtained in performing functions under the Directive or Regulation may not be disclosed except in accordance with law and that it is a category 3 offence if this confidentiality requirement is breached.

*Section 1555* provides that the obligation of professional secrecy applies to a member/director/employee/professional or other advisor (past or present) of IAASA, the recognised accountancy bodies or the Registrar of Companies.

*Section 1556* provides that IAASA or a recognised accountancy body must supply the required information without undue delay for the purposes of co-operation among counterpart authorities in other Member States and that confidentiality of information must not restrict such co-operation.



*Section 1557* sets out that IAASA or a recognised accountancy body must, on request, gather the required information or if it cannot be supplied in a timely manner, provide this fact and the reason for it to the relevant counterpart authority in the other Member State.

*Section 1558* provides that confidentiality requirements apply to information received by IAASA, the recognised accountancy bodies or the Registrar of Companies regarding the co-operation or exchange of information that is required of counterpart authorities in other Member States.

*Section 1559* provides that where a request for information is not complied with by IAASA or a recognised accountancy body and it is not an issue of delay or refusal, the requesting counterpart authority will be notified of the reasons for the refusal. In the case of a recognised accountancy body, IAASA will also be notified.

*Section 1560* provides that IAASA or a recognised accountancy body may refuse a request for information in certain circumstances. A recognised accountancy body will only do so after consultation with IAASA. The grounds for a refusal are where it might adversely affect sovereignty, security or public order or breach national security rules, where judicial proceedings have commenced or final judgement has been passed on the same actions and on the same statutory auditors/audit firms by the Authority/body. It must notify the counterpart authority in the Member State that made the request of its reasons for refusing to comply with the request.

*Section 1561* provides that IAASA or a recognised accountancy body may only use the information received, regarding the cooperation or exchange of information between counterpart authorities, in the performance of its functions in specific instances. This is without prejudice to any obligations on any Authority or body due to court proceedings regarding the use of such information. IAASA may transmit confidential information to counterpart authorities in other Member States that supervise public interest entities or other EU Authorities or EU Banks for the performance of their functions. Likewise, those Authorities/Banks may communicate information to IAASA to assist in the performance of its functions under the Regulation.

*Section 1562* provides that IAASA or a recognised accountancy body will notify a counterpart authority where they consider that activities of non-compliance with the Directive or Regulation on the latter's territory and include details and grounds for its opinion in the notification.

*Section 1563* provides that IAASA or a recognised accountancy may request an investigation be carried out by a counterpart authority of another Member State on its territory. This is where IAASA or the recognised accountancy body suspect that activities have been, or are being, carried out contrary to the Directive or Regulation. Officers of IAASA or the recognised accountancy body may request to accompany the counterpart authority in the course of the investigation. A recognised accountancy body will notify IAASA of such a request.

*Section 1564* provides for action to be taken by IAASA or a recognised accountancy body regarding activities contrary to the provisions of the Directive or Regulation in the context of co-operation with other Member States. Information on the outcome of the action and any significant developments prior to the outcome must be communicated to the notifying entity or authority in the relevant Member State and IAASA, where applicable.

*Section 1565* provides IAASA or a recognised accountancy body will give due consideration to a request for an investigation by a counterpart authority. The investigation will be under the control of IAASA or the recognised accountancy body, whichever is conducting it. Staff of the requesting authority may accompany officers of IAASA or a recognised accountancy body during the investigation. A recognised accountancy body will notify IAASA of such a request and the outcome of it.

*Section 1566* sets out grounds for refusing to act on a request for an investigation to be carried out where the sovereignty, security or public order of the State may be adversely affected or judicial proceedings have been initiated or a final judgement has passed in respect of the same actions and against the same statutory auditor or audit firm, the subject of the request. A recognised accountancy body must consult with IAASA before refusing a request and inform the Authority of the reasons for its decision. IAASA or a recognised accountancy body will notify the counterpart authority in the other Member State of its reasons for refusal of the request.

*Section 1567* provides that the principle of home country regulation and oversight by the Member State in which the statutory auditor/audit firm is approved and the audited undertaking has its registered office is respected. Audit firms approved in one Member State that perform audit services in another Member State will be subject to quality assurance review in the home Member State and oversight in the host Member State of any audit carried out there. Additional requirements may not be imposed on a statutory auditor/audit firm in relation to the statutory audit concerning registration, quality assurance review, auditing standards, professional ethics and independence where it is (i) a statutory audit of consolidated financial statements of a subsidiary established in another Member State and (ii) an undertaking with securities traded on a regulated market in another Member State to that in which it has its registered office, regarding the statutory audit of the annual or consolidated financial statement of that undertaking. Also, a statutory auditor/audit firm (i) approved in another Member State or (ii) having been a third country auditor, which is registered in any Member State and provides audit reports, the systems of oversight, quality assurance, investigations and sanctions of that Member State will apply.

*Section 1568* provides that audit working papers/other documents may be transferred to a third country competent authority only if certain conditions are complied with as determined by IAASA. It includes the working arrangements that must apply between the third country competent authority and IAASA.

*Section 1569* provides that IAASA may allow a statutory auditor/audit firm to transfer audit working papers/other documents to a third country competent authority directly, in exceptional circumstances, provided certain conditions are met.

*Section 1570* provides that where IAASA enters into working arrangements with a third country competent authority, it must publish the name and jurisdiction of the third country competent authority. The working arrangements will be notified to the EU Commission by IAASA.

*Section 1571* provides for IAASA to carry out quality assurance reviews in the context of a joint inspection with the USA or any other competent authority deemed adequate for this purpose by a Commission Implementing Decision.

*Section 1572* provides that a third country auditor may be approved as a statutory auditor subject to meeting good repute and certain educational

qualifications/practical training requirements. Reciprocal arrangements must also be in place with the particular third country, that allow a statutory auditor approved in the State, to carry out audits there.

*Section 1573* provides for the registration requirements for third country auditors/audit entities who have indicated their intention in writing to provide an audit report concerning the annual or group accounts of undertakings incorporated outside the EU (except for collective investment undertakings of the closed ended type) but who are trading on a regulated market within the EU. Registration will have effect for a 12 month period. The information required is set out in Schedule 20. An exemption to registration is provided for an undertaking who is an issuer exclusively of outstanding debt securities in certain circumstances.

*Section 1574* provides that a third country auditor/audit entity may be exempted from the requirement of quality assurance, by IAASA, where a quality assurance review of it has been carried out in the previous three years by another Member State or a third country whose system has been deemed equivalent by the EU Commission.

*Section 1575* gives IAASA the power to remove a third country auditor/audit entity from the Public Register, via the Registrar of Companies, where it does not provide all the information and/or clarifications necessary for the renewal of their registrations and/or do not pay the appropriate assessment/registration fee or the outcome of a quality assurance inspection or investigation and disciplinary process requires it. The third country auditor will be given a reasonable opportunity to make representations on the matter. The name of the third country auditor/audit entity removed from the public register, along with the reason, may be published on IAASA's website.

*Section 1576* provides that an audit report provided by a third country auditor/audit entity, if no other conditions apply, will have no legal effect in the State if the auditor/audit entity is not registered with IAASA.

*Section 1577* sets out the conditions for registration of a third country auditor/audit entity, i.e. that the individuals concerned must be of good repute and have sufficient educational qualifications/practical training as required. It includes that the audits of annual or group financial statements must be carried out in accordance with the necessary standards and required independence. The potential registrant is also required to publish annually a report which includes transparency matters or complies with equivalent disclosure requirements.

*Section 1578* provides that where the EU Commission has not taken a decision on the equivalence of standards or registration requirements in third countries, IAASA may make such an assessment by relying on the general equivalence criteria established by the Commission.

*Section 1579* provides for fees to be charged by IAASA to third country auditors/audit entities in respect of registration, public oversight, quality assurance and investigations, sufficient to cover its administrative expenses associated with these tasks. The fees will be subject to the Minister's consent, based on criteria submitted by IAASA.

*Section 1580* provides that a third country auditor/audit firm may be exempted from the requirements of registration or quality assurance where the systems of public oversight, quality assurance and investigations/penalties in their own country are deemed equivalent by the EU Commission to that of the EU and where reciprocity applies. IAASA will notify the EU Commission of any reciprocal arrangements it makes.

*Section 1581* provides that sections 934 to 934I on investigations and sanctions shall apply to third country auditors/audit entities.

*Section 1582* provides for savings for disciplinary proceedings underway under the 2010 Audit Regulations at the time of enactment of the Bill.

*Section 1583* provides for savings for disciplinary proceedings underway under the 2016 Audit Regulations at the time of enactment of the Bill.

*Section 1584* provides for savings for disciplinary proceedings underway by prescribed accountancy bodies at the time of enactment of the Bill (not being proceedings under sections 1582(1) and 1583(1)).

*Section 52* amends the Companies Act 2014 by inserting Schedules 19 and 20. Schedule 19 sets out the standards related to training and qualifications for approval of an individual as a statutory auditor. Schedule 20 sets out the information required to be entered in the Public Register.

### PART 3

#### CONSEQUENTIAL AMENDMENTS

*Section 53* defines the Act of 1893 and the Act of 1896.

*Section 54* amends the Act of 1893. Section 13 is amended by the substitution of “statutory auditors” for “public auditors”. It also provides for the conditions to act as a statutory auditor.

*Section 55* amends the Act of 1893. Section 14 is amended by the substitution of “statutory auditor” for “auditor or auditors”.

*Section 56* amends the Act of 1893. Section 16 is amended by the substitution of “statutory auditor” for “auditors”.

*Section 57* amends the Act of 1893. Section 68 is replaced with new text.

*Section 58* amends the Act of 1893. Section 75 is amended by the substitution of “statutory auditor” for “public auditor”.

*Section 59* amends the Act of 1893. Section 79 is amended by the inclusion of a definition for “statutory auditor”.

*Section 60* amends the Act of 1893. Schedule II, paragraph 8, is amended by the substitution of “statutory auditor” for “auditors or a public auditor”.

*Section 61* amends the Act of 1896. Section 26 is amended by the substitution of “statutory auditor” for “public auditor”.

*Section 62* amends the Act of 1896. Section 27 is amended by the substitution of “statutory auditor” for “public auditor”.

*Section 63* amends the Act of 1896. Section 80 is amended by the substitution of “any other person” for “public auditor”.

*Section 64* amends the Act of 1896. Section 84A is inserted to include an offence for contravention of section 26(4) or (5).

*Section 65* amends the Act of 1896. Section 100 is amended by the substitution of “statutory auditor” for “public auditor”.

*Section 66* amends the Act of 1896. Section 106 is amended by including a definition for “statutory auditor”.

*Section 67* amends the Industrial and Provident Societies (Amendment) Act 1913. Section 2 is amended by the substitution of “statutory auditor” for “public auditor”.

**Section 68** amends the Ministerial and Parliamentary Offices Act 1938. Section 10B is amended by the substitution of “statutory auditor” for “public auditor”.

**Section 69** amends the Seanad Electoral (Panel Members) Act 1947. Section 8 is amended by the substitution of “statutory auditor” for “public auditor”.

**Section 70** amends the Electoral Act 1992. Section 25C(5) is amended by the substitution of “statutory auditor” for “public auditor”.

**Section 71** amends the Credit Union Act 1997. Section 114 is amended by the substitution of “statutory auditors” for “public auditors”.

**Section 72** amends the Electoral Act 1997. Sections 20 and 86 are amended by the substitution of “statutory auditor” for “public auditor”.

**Section 73** amends the Irish Collective Asset-management Vehicles Act 2015. Consequential amendments were required to be made to the Irish Collective Asset-management Vehicles (ICAV) Act 2015.

**Section 74** amends the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011. It inserts section 6A: Disapplication of sections 1099 to 1110 of Companies Act 2014 to UCITS.

*An Roinn Gnó, Fiontar agus Nuálaíochta,  
Samhain, 2017.*