

EXPLANATORY MEMORANDUM TO
THE COMPANIES AUDITORS (RECOGNITION ORDERS) (APPLICATION FEES)
AND THE COMPANIES ACT 1989 (RECOGNISED SUPERVISORY BODIES)
(PERIODICAL FEES) (REVOCATION) REGULATIONS 2005

2005 No. 2243

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This order revokes regulations, which set fees payable by bodies applying for recognition as a recognised qualifying body or a recognised supervisory body under Part 2 of the Companies Act 1989 (which provides for the regulation of company auditors). There are two sets of fees regulations in force; one sets an annual fee for each recognised supervisory body (£3,500), and the other sets application fees (£6,500 for recognition as a supervisory body; £6,000 for recognition of a professional qualification). These fees regulations are being revoked because the majority of functions of the Secretary of State under Part 2 are being delegated to the Professional Oversight Board for Accountancy (the POBA) (a body established under the framework of the Financial Reporting Council).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The majority of the functions of the Secretary of State under Part 2 of the Companies Act 1989, including those in relation to recognised supervisory bodies and the making of recognition orders, are being transferred to the Professional Oversight Board for Accountancy which will accordingly have the function of determining whether to prescribe any fee to replace the fees prescribed in the revoked regulations.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 No statement is required

7. Policy background

7.1 The main purpose of Part 2 of the Companies Act 89 is to ensure that only people who are properly supervised and appropriately qualified can carry out audits of companies, and that audits are carried out properly, with integrity and a proper degree of independence.

7.2 Following the major corporate scandals of Enron and WorldCom in the US in which both those responsible for preparing accounts, and those responsible for auditing them, were implicated, the Government undertook a review of the way the accountancy and audit professions were regulated. One of the issues addressed by the review was whether there would be benefits in an independent body carrying out the recognition function instead of the Secretary of State.

7.3 The review concluded that delegation would result in more effective oversight of recognised bodies and qualifications, as it would mean that oversight would be carried out by a body with audit and professional oversight responsibilities. The Secretary of State for Trade and Industry announced in January 2003 that she accepted the review's conclusions.

7.4 The draft Companies Act 1989 (Delegation) Order, which delegates these functions to the POBA, was approved by Parliament during July 2005. Once the delegation order is in force and the Secretary of State's functions under Part 2 transferred to the POBA it will be for that body to determine whether to prescribe any fees to replace the fees which have been revoked.

8. **Impact**

8.1 A Regulatory Impact Assessment (RIA) has not been prepared for this instrument, as no impact on the private or voluntary sector is foreseen. There are no public sector impacts.

9. **Contact**

9.1 Julie Ford at the Department of Trade and Industry Tel: 020 7215 2162 or e-mail: julie.ford@dti.gsi.gov.uk can answer any queries regarding the instrument.