

Report to Registrar and Director: category 1 and 2 offences

393. (1) Where, in the course of, and by virtue of, their carrying out an audit of the financial statements of the company, information comes into the possession of the statutory auditors of a company that leads them to form the opinion that there are reasonable grounds for believing that the company or an officer or agent of it has committed a category 1 or 2 offence, the statutory auditors shall, forthwith after having formed it, notify that opinion to the Director and provide the Director with particulars of the grounds on which they have formed that opinion.

(2) Where the statutory auditors of a company notify the Director of any matter pursuant to subsection (1), they shall, in addition to performing their obligations under that subsection, if requested by the Director—

(a) furnish the Director with such further information in their possession or control relating to the matter as the Director may require, including further information relating to the particulars of the grounds on which they formed the opinion referred to in that subsection,

(b) give the Director such access to books and documents in their possession or control relating to the matter as the Director may require, and

(c) give the Director such access to facilities for the taking of copies of or extracts from those books and documents as the Director may require.

(3) Any written information given in response to a request of the Director under subsection (2) shall in all legal proceedings (other than proceedings for an offence) be admissible without further proof, until the contrary is shown, as evidence of the facts stated in it.

(4) No professional or legal duty to which statutory auditors are subject by virtue of their appointment as statutory auditors of a company shall be regarded as contravened by, and no liability to the company, its shareholders, creditors or other interested parties shall attach to, statutory auditors, by reason of their compliance with an obligation imposed on them by or under this section.

(5) Nothing in this section compels the disclosure by any person of any information that the person would be entitled to refuse to produce on the grounds of legal professional privilege or authorises the inspection or copying of any document containing such information that is in the person's possession.

(6) A person who contravenes subsection (1) or fails to comply with a request under subsection (2) shall be guilty of a category 3 offence.