

Independent Reports on Polls and the Appointment of an Independent Assessor

*A guide to the new requirements for quoted
companies under the Companies Act 2006*



Who can demand an independent report on a poll?

See section 342 of the Act.

The directors are required to obtain an independent report if they receive requests to do so from—

- members representing not less than 5% of the total voting rights of all the members who have a right to vote on the matter to which the poll relates (excluding any voting rights attached to any shares in the company held as treasury shares), or
- not less than 100 members who have a right to vote on the matter to which the poll relates and hold shares in the company on which there has been paid up an average sum, per member, of not less than £100.

When can the independent report on a poll be demanded?

See section 342 of the Act.

A request must be received by the company either before the poll is taken or up to one week after the date on which the poll is taken.

Once a poll has been requisitioned, how long do the Directors have to appoint an independent assessor?

See section 343 of the Act.

The appointment must be made within one week after the company being required to obtain the report. The Act makes no allowance for public holidays.

Companies worried by this deadline should register with Electoral Reform Services, so we can guarantee our availability to act as your Independent Assessor in advance of a poll being requisitioned.

What is the Independence Requirement for an assessor?

See Sections 343 and 344 of the Act.

The directors must not appoint a person who has another role in relation to any poll on which he is to report (including, in particular, a role in connection with collecting or counting votes or with the appointment of proxies). This would normally preclude a registrar from fulfilling the role.

A person also may not be appointed as an independent assessor if :

- He/She is an officer or employee of the company, or a partner or employee of such a person, or a partnership of which such a person is a partner;
- He/She is an officer or employee of an associated undertaking of the company, or
- He/She is a partner or employee of such a person, or a partnership of which such a person is a partner;
- If there exists between the person or an associate of his/her, and the company or an associated undertaking of the company, a connection of any such description as may be specified by regulations made by the Secretary of State.

Auditors can be appointed provided they satisfy the other independence requirements and can be engaged within the one week deadline.

What does the independent assessor's report cover?

See section 347 of the Act.

The report of the independent assessor must state his/her opinion whether —

- the procedures adopted in connection with the poll or polls were adequate;
- the votes cast (including proxy votes) were fairly and accurately recorded and counted;
- the validity of members' appointments of proxies was fairly assessed;
- the notice of the meeting complied with section 325 (notice of meeting to contain statement of rights to appoint proxy);
- section 326 (company-sponsored invitations to appoint proxies) was complied with in relation to the meeting.

The independent assessor must state his/her reasons. If he/she is unable to form an opinion on any of those matters, the report must record that fact and state the reasons for it.

Who we are

Electoral Reform Services is a name synonymous with independence, integrity and transparency.

ERS is a company of the Electoral Reform Society, which has been established for over a century. From the beginning, our objective has been to promote good electoral practice. We now act as an independent scrutineer and ballot administrator for a wide range of organisations:

- Companies
- Trade Unions
- Local Authorities
- Government Departments and Agencies
- Political Parties *
- Charities
- Community Elections
- Institutions
- Professional Associations

** ERS is the only organisation that all 3 major political parties have used for ballots of their membership.*

The Electoral Reform Group undertakes electoral advice and assistance worldwide, conducting most of the election monitoring projects commissioned by the Foreign Office.

The Group is a United Nations NGO and has worked in over 50 countries.

Our availability to act as your Independent Assessor

Electoral Reform Services is well qualified to act as an independent assessor. However because of the tight deadlines specified in the Act, we can only guarantee our availability to companies that register with us in advance.

Companies can choose whether to retain us on stand-by in case a report is requisitioned, or to have us produce independent reports on behalf of their members as a matter of course. We charge for both services but our fees are less than those normally associated with professional services companies.

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