

(2) *The deposit of debentures as security for a debt of the company is not, for the purposes of this section, treated as the issue of debentures at a discount.*

(3) *Failure to comply with this section does not affect the validity of the debentures issued.*

NOTES

Commencement: 1 October 2009.

Chapters 1 and 2 of Part 25 (ss 860–892) were repealed by the Companies Act 2006 (Amendment of Part 25) Regulations 2013, SI 2013/600, reg 3, as from 6 April 2013, except in relation to charges created before that date (see the transitional provisions note at [1.911]).

[1.933]

865 Endorsement of certificate on debentures

(1) *The company shall cause a copy of every certificate of registration given under section 864 to be endorsed on every debenture or certificate of debenture stock which is issued by the company and the payment of which is secured by the charge so registered.*

(2) *But this does not require a company to cause a certificate of registration of any charge given to be endorsed on any debenture or certificate of debenture stock issued by the company before the charge was created.*

(3) *If a person knowingly and wilfully authorises or permits the delivery of a debenture or certificate of debenture stock which under this section is required to have endorsed on it a copy of a certificate of registration, without the copy being so endorsed upon it, he commits an offence.*

(4) *A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.*

NOTES

Commencement: 1 October 2009.

Chapters 1 and 2 of Part 25 (ss 860–892) were repealed by the Companies Act 2006 (Amendment of Part 25) Regulations 2013, SI 2013/600, reg 3, as from 6 April 2013, except in relation to charges created before that date (see the transitional provisions note at [1.911]).

Charges in other jurisdictions

[1.934]

866 Charges created in, or over property in, jurisdictions outside the United Kingdom

(1) *Where a charge is created outside the United Kingdom comprising property situated outside the United Kingdom, the delivery to the registrar of a verified copy of the instrument by which the charge is created or evidenced has the same effect for the purposes of this Chapter as the delivery of the instrument itself.*

(2) *Where a charge is created in the United Kingdom but comprises property outside the United Kingdom, the instrument creating or purporting to create the charge may be sent for registration under section 860 even if further proceedings may be necessary to make the charge valid and effectual according to the law of the country in which the property is situated.*

NOTES

Commencement: 1 October 2009.

Chapters 1 and 2 of Part 25 (ss 860–892) were repealed by the Companies Act 2006 (Amendment of Part 25) Regulations 2013, SI 2013/600, reg 3, as from 6 April 2013, except in relation to charges created before that date (see the transitional provisions note at [1.911]).

[1.935]

867 Charges created in, or over property in, another United Kingdom jurisdiction

(1) *Subsection (2) applies where—*

(a) *a charge comprises property situated in a part of the United Kingdom other than the part in which the company is registered, and*

(b) *registration in that other part is necessary to make the charge valid or effectual under the law of that part of the United Kingdom.*

(2) *The delivery to the registrar of a verified copy of the instrument by which the charge is created or evidenced, together with a certificate stating that the charge was presented for registration in that other part of the United Kingdom on the date on which it was so presented has, for the purposes of this Chapter, the same effect as the delivery of the instrument itself.*

NOTES

Commencement: 1 October 2009.

Chapters 1 and 2 of Part 25 (ss 860–892) were repealed by the Companies Act 2006 (Amendment of Part 25) Regulations 2013, SI 2013/600, reg 3, as from 6 April 2013, except in relation to charges created before that date (see the transitional provisions note at [1.911]).

Orders charging land: Northern Ireland

[1.936]

868 Northern Ireland: registration of certain charges etc affecting land

(1) *Where a charge imposed by an order under Article 46 of the 1981 Order or notice of such a charge is registered in the Land Registry against registered land or any estate in registered land of a company, the Registrar of Titles shall as soon as may be cause two copies of the order made under Article 46 of that Order or of any notice under Article 48 of that Order to be delivered to the registrar.*

(2) *Where a charge imposed by an order under Article 46 of the 1981 Order is registered in the Registry of Deeds against any unregistered land or estate in land of a company, the Registrar of Deeds shall as soon as may be cause two copies of the order to be delivered to the registrar.*

(3) *On delivery of copies under this section, the registrar shall—*

(a) *register one of them in accordance with section 869, and*

(b) *not later than 7 days from that date of delivery, cause the other copy together with a certificate of registration under section 869(5) to be sent to the company against which judgment was given.*

(4) *Where a charge to which subsection (1) or (2) applies is vacated, the Registrar of Titles or, as the case may be, the Registrar of Deeds shall cause a certified copy of the certificate of satisfaction lodged under Article 132(1) of the 1981 Order to be delivered to the registrar for entry of a memorandum of satisfaction in accordance with section 872.*

(5) *In this section—*

“the 1981 Order” means the Judgments Enforcement (Northern Ireland) Order 1981 (SI 1981/226 (NI 6));

“the Registrar of Deeds” means the registrar appointed under the Registration of Deeds Act (Northern Ireland) 1970 (c 25);

“Registry of Deeds” has the same meaning as in the Registration of Deeds Act;

“Registration of Deeds Act” means the Registration of Deeds Act (Northern Ireland) 1970 and every statutory provision for the time being in force amending that Act or otherwise relating to the registry of deeds, or the registration of deeds, orders or other instruments or documents in such registry;

“the Land Registry” and “the Registrar of Titles” are to be construed in accordance with section 1 of the Land Registration Act (Northern Ireland) 1970 (c 18);

“registered land” and “unregistered land” have the same meaning as in Part 3 of the Land Registration Act (Northern Ireland) 1970.

NOTES

Commencement: 1 October 2009.

Commencement (transitional provisions): the Companies Act 2006 (Commencement No 8, Transitional Provisions and Savings) Order 2008, SI 2008/2860, Sch 2, para 85 at [2.91] provides that this section applies where the date of registration of the charge in the Land Registry is on or after 1 October 2009 (and that art 408 of the 1986 Order continues to apply where the date of registration of the charge in the Land Registry is before that date).

Chapters 1 and 2 of Part 25 (ss 860–892) were repealed by the Companies Act 2006 (Amendment of Part 25) Regulations 2013, SI 2013/600, reg 3, as from 6 April 2013, except in relation to charges created before that date (see the transitional provisions note at [1.911]).

The register of charges

[1.937]

869 Register of charges to be kept by registrar

(1) *The registrar shall keep, with respect to each company, a register of all the charges requiring registration under this Chapter.*

(2) *In the case of a charge to the benefit of which holders of a series of debentures are entitled, the registrar shall enter in the register the required particulars specified in section 863(2).*

(3) *In the case of a charge imposed by the Enforcement of Judgments Office under Article 46 of the Judgments Enforcement (Northern Ireland) Order 1981, the registrar shall enter in the register the date on which the charge became effective.*

(4) *In the case of any other charge, the registrar shall enter in the register the following particulars—*

(a) *if it is a charge created by a company, the date of its creation and, if it is a charge which was existing on property acquired by the company, the date of the acquisition,*

(b) *the amount secured by the charge,*

(c) *short particulars of the property charged, and*

(d) *the persons entitled to the charge.*

(5) *The registrar shall give a certificate of the registration of any charge registered in pursuance of this Chapter, stating the amount secured by the charge.*

(6) *The certificate—*

(a) *shall be signed by the registrar or authenticated by the registrar's official seal, and*

(b) *is conclusive evidence that the requirements of this Chapter as to registration have been satisfied.*

(7) *The register kept in pursuance of this section shall be open to inspection by any person.*

(2) The following provisions of the Companies Act 2006 come into force on 1st January 2007 so far as necessary for the purposes of the provisions mentioned in paragraph (1)—

- (a) section 2 (the Companies Acts);
- (b) section 1068(1) to (4), (6) and (7) (registrar's requirements as to form, authentication and manner of delivery);
- (c) section 1114 (application of provisions about documents and delivery);
- (d) section 1117 (registrar's rules);
- (e) section 1120 (application of provisions to overseas companies);
- (f) section 1168 (hard copy and electronic form and related expressions);
- (g) in section 1173 (minor definitions: general), the definitions of "Gazette" and "working day"; and
- (h) section 1284 (extension of Companies Acts to Northern Ireland).

[2.3]

3 Provisions coming into force on 20th January 2007

- (1) The following provisions of the Companies Act 2006 come into force on 20th January 2007 so far as necessary for the purposes of the provisions mentioned in paragraph (1)—
- (a) sections 308 (manner in which notice to be given) and 309 (publication of notice of meeting on website);
 - (b) section 333 (sending documents relating to meetings etc in electronic form);
 - (c) section 463 (liability for false or misleading statements in reports);
 - (d) sections 791 to 810, 811(1) to (3), 813 and 815 to 828 (information about interests in a company's shares); and
 - (e) sections 1143 to 1148 and Schedules 4 and 5 (the company communications provisions).

(2) The following provisions of the Companies Act 2006 come into force on 20th January 2007 so far as necessary for the purposes of the provisions mentioned in paragraph (1)—

- (a) section 2 (the Companies Acts);
- (b) sections 1121, 1122, 1125 to 1131 and 1133 (provisions relating to offences);
- (c) section 1168 (hard copy and electronic form and related expressions);
- (d) in section 1173 (minor definitions: general), the definition of "working day"; and
- (e) section 1284 (extension of Companies Acts to Northern Ireland).

(3) The provisions of the Companies Act 2006, so far as not brought into force by sections 2, 1121 to 1133, 1168, 1173 and 1284 of that Act or article 2 or the preceding provisions of this article, come into force on 20th January 2007 for the purpose of enabling the exercise of powers to make orders or regulations by statutory instrument.

[2.4]

4 Provisions coming into force on 6th April 2007

- (1) The following provisions of the Companies Act 2006 come into force on 6th April 2007 so far as necessary for the purposes of the provisions mentioned in paragraph (1)—
- (a) section 1063 (fees payable to registrar), so far as not in force by virtue of article 3 of this Order;
 - (b) section 1176 (power of Secretary of State to bring civil proceedings on company's behalf);
 - (c) section 1177 (repeal of certain provisions about company directors);
 - (d) section 1178 (repeal of requirement that certain companies publish periodical statements);
 - (e) section 1179 (repeal of requirement that Secretary of State prepare annual report); and
 - (f) section 1281 (disclosure of information under the Enterprise Act 2002).

(2) Section 1295 of, and Schedule 16 to, the Companies Act 2006 (repeals) come into force on 6th April 2007 so far as relating to the repeal of—

- (a) the provisions of the 1986 Order corresponding to the provisions of the 1985 Act repealed by the provisions mentioned in paragraph (1)(b) to (e);
- (b) section 41 of the 1985 Act and Article 51 of the 1986 Order (authentication of documents on behalf of company); and
- (c) sections 293 and 294 of the 1985 Act and Articles 301 and 302 of the 1986 Order (limits for directors).

(3) The following provisions of the Companies Act 2006 come into force on 6th April 2007 so far as necessary for the purposes of the provisions mentioned in paragraphs (1) and (2)—

- (a) section 1060 (the registrar of companies);
- (b) section 1061 (the registrar's functions); and
- (c) section 1284 (extension of Companies Acts to Northern Ireland).

(4) The coming into force of section 1063 by virtue of paragraph (1)(a) does not extend to Northern Ireland.

[2.5]

5 Transitional adaptations of provisions brought into force

The provisions brought into force by articles 2, 3 and 4 have effect subject to any transitional adaptations specified in Schedule 1.

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[2.6] Interpretation of provisions brought into force

6 Where an expression in a provision brought into force by this Order (or in an adaptation made by this Order of such a provision)—

- (a) is defined in the 1985 Act or the 1986 Order ("the old definition"); and
- (b) is defined in the Companies Act 2006 by another provision that is not yet in force for the purposes of the provision brought into force ("the new definition"),

the expression has, for the purposes of the provision brought into force (or the adaptation), the meaning given by the old definition until the new definition is brought into force for the purposes of that provision.

[2.7]

7 Consequential repeals

Section 1295 of, and Schedule 16 to, the Companies Act 2006 (repeals) come into force—

- (a) on 1st January 2007 so far as relating to the repeal of the provisions specified in Schedule 2;
- (b) on 20th January 2007 so far as relating to the repeal of the provisions specified in Schedule 3; and
- (c) on 6th April 2007 so far as relating to the repeal of the provisions specified in Schedule 4.

[2.8]

8 Transitional provisions and savings

(1) Schedule 5 contains transitional provisions and savings relating to the provisions (and repeals) brought into force by this Order.

(2) Nothing in this Order affects the application of any provision of the 1985 Act or the 1986 Order as applied by the Limited Liability Partnerships Regulations 2001 or the Limited Liability Partnership Regulations (Northern Ireland) 2004 to limited liability partnerships.

SCHEDULES

SCHEDULE 1

TRANSITIONAL ADAPTATIONS OF PROVISIONS BROUGHT INTO FORCE

Article 5

The Companies Acts

[2.9]

1. (1) Section 2 (the Companies Acts) has effect with the following adaptation.

(2) For subsection (1)(c) substitute—

"(c) the provisions of the Companies Acts as defined in section 744 of the Companies Act 1985, and the Companies Orders as defined in Article 2(3) of the Companies (Northern Ireland) Order 1986, that remain in force."

Information about interests in a company's shares

2. (1) Section 813 (register of interests disclosed: refusal of inspection or default in providing copy) has effect with the following adaptation.

(2) In subsection (1) omit " , otherwise than in accordance with an order of the court , "

3. (1) Section 826 (information about interests in a company's shares protected from wider disclosure) has effect with the following adaptation.

(2) In subsection (1) for "regulations under section 409(3)" substitute "section 231(3) of the Companies Act 1985 or Article 239(3) of the Companies (Northern Ireland) Order 1986".

Documents delivered to registrar of companies

4. (1) Section 1077 (public notice of receipt of certain documents) has effect with the following adaptation.

(2) Omit subsection (1)(b).

5. (1) Section 1078 (documents subject to Directive disclosure requirements) has effect with the following adaptations.

(2) In subsection (2) (documents relating to any company)—

(a) under the heading "Constitutional documents"—

- (i) in item 2 for "Any amendment of the company's articles" substitute "Any amendment of the company's memorandum or articles";
- (ii) for item 3 substitute—

"3. After any amendment of the company's memorandum or articles, the text of the document as amended."

- (b) state whether the auditor's report on the annual accounts was unqualified or qualified.

NOTES

Revoked as noted in the introductory notes to these Regulations.

[4.112]

7 Relevant consultation

- (1) A company may conduct a relevant consultation to ascertain the wishes of a person specified in regulation 3.
- (2) For the purposes of this regulation, a relevant consultation of the wishes of such a person is a notice given to that person which—
- states that for the future, so long as he is a person specified in regulation 3, he will receive a summary financial statement instead of the full accounts and reports of the company unless he notifies the company that he wishes to continue to receive full accounts and reports;
 - accompanies a copy of the full accounts and reports; and
 - accompanies a copy of a summary financial statement, prepared in accordance with section 426 of the 2006 Act, and sections 427 and 428 of that Act, as appropriate, under these Regulations, with respect to the financial year covered by those full accounts and reports and which is identified in the notice as an example of the document which that person will receive for the future, so long as he is a person specified in regulation 3, unless he notifies the company to the contrary.

NOTES

Revoked as noted in the introductory notes to these Regulations.

[4.113]

8 Supplementary provisions for Part 2

- (1) Subject to any requirement or contrary provision of this Part the company communication provisions of the 2006 Act apply to any notice or other communication required or authorised to be sent to or by the company by any provision in this Part.
- (2) This regulation and regulations 5, 6 and 7 apply to a person who is not a person specified in regulation 3, conditionally or unconditionally, to become a person specified in section 423(1) of the 2006 Act in relation to the company, but who has not yet become such a person, as they apply to a person specified in regulation 3.
- (3) Subject to paragraph (4), a notice given under regulation 6 or 7 must be accompanied by a card or form—
- in respect of which, in the case of a card or form sent by post, any postage necessary for its return to the company has been, or will be, paid by the company, and
 - which is so worded as to enable a person specified in regulation 3, by marking it and returning the card or form, to notify the company that he wishes to receive full accounts and reports for the next financial year for which he is entitled to receive them as a person and for all future financial years after that.
- (4) The company need not pay the postage in respect of the return of the card or form in the following circumstances—
- if the address of a member to which notices are sent in accordance with the company's constitution is not within an EEA State,
 - if the address of a debenture holder to which notices are sent in accordance with the terms of any instrument constituting or otherwise governing the debentures of which the holder is not within an EEA State, or
 - if the address of a person to whom paragraph (2) applies to which notices are sent in accordance with the contractual provisions under which he has a right (conditionally or unconditionally) to become a person specified in section 423(1) of the 2006 Act is not within an EEA State.

NOTES

Revoked as noted in the introductory notes to these Regulations.

PART 3 FORM AND CONTENT OF SUMMARY FINANCIAL STATEMENT

[4.114]

9 Provisions applying to all companies and groups

- (1) Every summary financial statement issued by a company in place of the full accounts and reports must comply with this regulation.
- (2) The summary financial statement must state the name of the person who signed it on behalf of the board.

1065

(3) The summary financial statement of a company the directors of which do not prepare group accounts under Part 15 of the 2006 Act must include a statement in a prominent position to the effect that the summary financial statement does not contain sufficient information to allow as full an understanding of the results and state of affairs of the company, and of its policies and arrangements concerning directors' remuneration (where appropriate) as would be provided by the full annual accounts and reports, and that persons specified in regulation 3 requiring more detailed information have the right to obtain, free of charge, a copy of the company's last full accounts and reports.

(4) The summary financial statement of a company the directors of which prepare group accounts under Part 15 of the 2006 Act must include a statement in a prominent position to the effect that the summary financial statement does not contain sufficient information to allow as full an understanding of the results of the group and state of affairs of the company or of the group, and of their policies and arrangements concerning directors' remuneration (where appropriate) as would be provided by the full annual accounts and reports, and that persons specified in regulation 3 requiring more detailed information have the right to obtain, free of charge, a copy of the company's last full accounts and reports.

(5) The summary financial statement must contain a clear, conspicuous statement—

- of how persons specified in regulation 3 can obtain, free of charge, a copy of the company's last full accounts and reports, and
- of how such persons may elect to receive full accounts and reports in place of summary financial statements for all future financial years.

(6) The summary financial statement must contain the whole of, or a summary of, that portion of the notes to the accounts for the financial year in question which sets out the information required by paragraph 1 of Schedule 3 to the Small Companies Accounts Regulations or paragraph 1 of Schedule 5 to the Large and Medium-sized Companies Accounts Regulations, as the case may be (total amount of directors' remuneration etc).

(7) The summary financial statement must contain the information prescribed in relation to the directors' remuneration in the provisions of this Part of the Regulations which apply to the company in such order, under such headings, as the directors consider appropriate.

(8) The summary financial statement must contain any other information necessary to ensure that the statement is consistent with the full accounts and reports for the financial year in question.

NOTES

Revoked as noted in the introductory notes to these Regulations.

[4.115]

10 Provisions applying only to certain types of company

(1) The summary financial statement of a company having certain securities publicly traded as specified in paragraph 13 of Schedule 7 to the Large and Medium-sized Companies Accounts Regulations (disclosure required by certain publicly-traded companies) must—

- include in the statement the explanatory material required to be included in the directors' report by paragraph 14 of that Schedule, or
- send that material to the person receiving the summary financial statement at the same time as it sends the statement.

(2) The summary financial statement of a quoted company must contain the whole of, or a summary of, those portions of the directors' remuneration report for the financial year in question which set out the matters required by paragraphs 3 (statement of company's policy on directors' remuneration) and 5 (performance graph) of Schedule 8 to the Large and Medium-sized Companies Accounts Regulations.

NOTES

Revoked as noted in the introductory notes to these Regulations.

[4.116]

11 Contents of summary financial statements

(1) Subject to regulations 9 and 10, the summary financial statement of a company must be in such form, and contain such information, as is prescribed in relation to that company in the following paragraphs of this regulation so far as applicable to that company.

(2) The summary financial statement of a company (other than a banking or insurance company) the directors of which—

- do not prepare group accounts under Part 15 of the 2006 Act, and
- prepare Companies Act individual accounts under section 396 of the 2006 Act, must comply with Schedule 1 to these Regulations.

(3) The summary financial statement of a banking company the directors of which—

- do not prepare group accounts under Part 15 of the 2006 Act, and
- prepare Companies Act individual accounts under section 396 of the 2006 Act, must comply with Schedule 2 to these Regulations.

Matter in relation to which fee is payable	Amount of fee
(ii) where that certificate is delivered by post by same day delivery and it is the first certificate relating to that body corporate provided to an applicant on any one occasion,	£60.00
(iii) where it is an additional certificate delivered by post (by same day delivery or not) relating to the same body corporate provided to the same applicant on the same occasion;	£10.00
(p) for a copy certificate of incorporation of the type referred to in sub-paragraph (o) above, provided on an application to a CHCC, and made available for collection at a CHIC—	
(i) where that certificate is made available other than for same day collection and it is the first certificate relating to that body corporate provided to an applicant on any one occasion,	£20.00
(ii) where that certificate is made available for same day collection and it is the first certificate relating to that body corporate provided to an applicant on any one occasion,	£60.00
(iii) where it is an additional certificate made available for collection (for same day collection or not) relating to the same body corporate provided to the same applicant on the same occasion;	£10.00

and, for the purposes of this paragraph a “long list of members” means a list of members delivered to the registrar under section 856A or 856B of the 2006 Act in relation to companies which exceed 49 pages and which is delivered in hard copy form.

NOTES

Commencement: 1 October 2012.

**PART 3
CONTENTS OF COMPANY REPORT**

[4.619]

13 Companies register information

Information relating to the company including its registered number, its date of incorporation, name and the number of registered charges.

14 Any previous names of the company during the period of 20 years prior to the date to which company report is made up.

15 A list of dates including those relating to latest annual accounts and annual returns and latest the next such documents to be delivered to the registrar.

16 Charges and appointments

An applicant may elect to have either of the following sets of particulars—

- (a) particulars of charges registered in respect of a company, or
- (b) particulars of the directors and secretary of a company together with the particulars in paragraph (a),

except an applicant using WebCheck can only elect to have the sets of particulars in paragraph (b).

17 Recent filing history

List of documents delivered to the registrar during the previous 18 months up to a maximum of documents listed in the reverse order of the dates of delivery excluding returns of allotments requested by the applicant.

NOTES

Commencement: 1 October 2012.

**PART 4
CONTENTS OF LIMITED LIABILITY PARTNERSHIP REPORT**

[4.620]

18 Limited liability partnership register information

Information relating to a limited liability partnership including its registered number, its date of incorporation, its name and the number of registered charges.

19 Any previous names of a limited liability partnership.

20 A list of dates including those relating to latest annual accounts and annual returns and latest the next such documents to be delivered to the registrar.

Charges and appointments

An applicant may elect to have either of the following sets of particulars—

- (a) particulars of charges registered in respect of a limited liability partnership, or
 - (b) particulars of the members of a limited liability partnership together with the particulars in sub-paragraph (a),
- except an applicant using WebCheck can only elect to have the sets of particulars in sub-paragraph (b).

22 Recent filing history

List of documents delivered to the registrar during the previous 18 months up to a maximum of 100 documents listed in the reverse order of the dates of delivery.

NOTES

Commencement: 1 October 2012.

**PART 5
DOCUMENT PACKAGES FOR COMPANIES**

[4.621] Listed below are the document packages and the documents included in each package:

23 General package

Incorporation documents and name change documents.
Resolutions and memorandum and articles of association.
Any documents relating to strike-off.

Latest annual accounts or, as the case may be, accounting documents and notices specifying accounting reference date or extending the period allowed for laying and delivering accounts and reports.

24 Current package

Latest annual accounts or, as the case may be, accounting documents and notices specifying accounting reference date or extending the period allowed for laying and delivering accounts and reports.
Latest annual return.
Notification of change among directors or in secretary or their particulars and changes in registered office in each case since the date to which the latest annual return was made up, (at the option of the applicant) Returns of allotments of shares delivered to the registrar since the date to which the latest annual return giving full particulars of the members is made up. (Long list of members not available).

25 Charges package

Charge related documents since incorporation.
The company report containing the particulars in paragraph 16(a) above.

26 Insolvency package

Company voluntary arrangements, administration, receivership, winding up, dissolution and strike-off related documents delivered to the registrar since April 1995.

27 Accounts package

Annual accounts, or as the case may be, accounting documents and notices specifying accounting reference date or extending the period allowed for laying and delivering accounts and reports delivered to the registrar over the previous 5 years.

28 Constitution package

The most recently delivered to the registrar of any of the documents specified below—
The certificate of incorporation where issued on incorporation, a change of name or re-registration.
The articles of association, or in the case of an existing company, the memorandum and articles of association.
Any resolutions and agreements affecting a company's constitution.

NOTES

DRAFT AMENDMENTS: Note that the DRAFT Community Interest Company (Amendment) Regulations 2014 substituted as follows (as from 1 October 2014 in relation to any dividend declared, or proposed to be declared, on or after that date). As of 20 July 2014, the 2014 Regulations had not been made:

27 Information about dividends

- (1) This regulation applies to the community interest company report of any community interest company which declares, or whose directors propose to declare, a dividend for the financial year to which the report relates.
- (2) The report must state the amount of any dividend declared, or proposed to be declared, by the company in respect of its shares for the financial year to which the report relates.
- (3) The report must also explain how the declaration or proposed declaration of any dividend declared, or proposed to be declared, by the company in respect of the financial year to which the report relates complies, or will comply, with regulations 17 and 19.
- (4) The explanation provided under paragraph (3) must include details of—
 - (a) in the case of an exempt dividend, why it is an exempt dividend; and
 - (b) in the case of any other dividend, the maximum aggregate dividend and how each of these has been determined.

[6.142]

28 Information about debts or debentures on which a performance-related rate is payable

- (1) Where a community interest company has at any time during the financial year in which the community interest company report is made, a debt or debenture in issue, to which regulation 21 applies, its community interest company report must state—
 - (a) the rate of interest payable on that debt or debenture as calculated over a 12 month period ending with the most recent date on which interest became payable in respect of that debt or debenture during the financial year; and
 - (b) the applicable interest cap applying to that debt or debenture, and how each of these has been determined.
- (2) Where the company has at any time during the financial year a debt or debenture in issue, to which regulation 21 does not apply, but on which a performance-related rate is payable, its community interest company report must state—
 - (a) the rate of interest payable on that debt or debenture as calculated over a 12 month period ending with the most recent date on which interest became payable in respect of that debt or debenture during the financial year; and
 - (b) why regulation 21 does not apply to that debt or debenture.

[6.143]

[29] Application of provisions relating to directors' report

The following provisions of the 2006 Act apply to the community interest company report in relation to the directors' report—

- section 419 (approval and signing);
- sections 423 to 425, 430 to 433 and 436 (publication);
- sections 437 and 438 (public companies: laying before general meeting);
- section 454 (voluntary revision).]

NOTES

Substituted by the Companies Act 2006 (Consequential Amendments etc) Order 2008, SI 2008/948, art 3(1), Sch 1, para 242(1), (4), as from 6 April 2008 (for savings see art 6(4) of the 2008 Order (at [4.245]) which provides that the virtue of any transitional provision, a provision of the Companies Act 2006 has effect only (a) on or after a specified date, (b) in relation to matters occurring or arising on or after a specified date, any amendment substituting or inserting a provision to that provision has effect correspondingly).

Words omitted revoked by the Community Interest Company (Amendment) Regulations 2012, SI 2012/2335, reg 2, as from 1 October 2012 (in relation to community interest company reports for financial years ending on or after that date).

**PART 8
MANAGERS**

[6.144]

[29A] Delivery of community interest company report to the registrar of companies

- (1) The directors of a community interest company must deliver to the registrar of companies a copy of the community interest company report for each financial year.
- (2) For these purposes, sections 441 to 443, 445(1) and (5), 446(1) and (3), 447(1) and (3), 451 to 453 of the 2006 Act apply to a community interest company report as they apply to a directors' report.
- (3) Sections 444(1) and (6) and 444A(1) and (3) apply to a community interest company report as they apply to a directors' report with the following modifications—

section 444(1) has effect as if the directors of a community interest company subject to the small companies regime must deliver a copy of the community interest company report for each financial year to the registrar; and

section 444A(1) has effect as if the directors of a community interest company which is entitled to the small companies exemption in relation to the directors' report for a financial year must deliver a copy of the community interest company report for that year to the registrar.]

Commencement: 1 October 2012.

Substituted by the Community Interest Company (Amendment) Regulations 2012, SI 2012/2335, reg 2(1), (3), as from 1 October 2012 (in relation to community interest company reports for financial years ending on or after that date).

Remuneration

- (1) The Regulator is authorised to determine the amount of a manager's remuneration.
- (2) The remuneration of a manager shall be payable out of the income of the community interest company in respect of which the manager was appointed.
- (3) The Regulator is authorised to disallow any amount of remuneration of a manager if—
 - (i) the time specified in the notice referred to in regulation 32(2) has expired; and
 - (ii) the Regulator—
 - (i) has considered such representations, if any, as are duly made in response to such a notice; and
 - (ii) is satisfied that the manager has failed in such manner as is set out in sub-paragraph (a)(i) or (ii) of regulation 32(1) and specified in such a notice.

Security

The Regulator is authorised to require the manager to give security to him for the due discharge of the manager's functions within such time and in such form as the Regulator may specify.

Failure and removal

- Where—
- (i) it appears to the Regulator that a manager has failed—
 - (i) to give security within such time or in such form as the Regulator has specified; or
 - (ii) satisfactorily to discharge any function imposed on the manager by or by virtue of the order by which the manager was appointed or by regulation 33; and
 - (ii) the Regulator wishes to consider exercising his powers under regulation 30(3) or paragraph (3) of this regulation,
- the Regulator shall give the manager, whether in person or by post, a written notice complying with paragraph (2).
- A notice given to a manager under paragraph (1) shall inform the manager of—
- (a) any failure under paragraph (1)(a) in respect of which the notice is issued;
 - (b) the Regulator's power under regulation 30(3) to authorise the disallowance of any amount of remuneration if satisfied as to any such failure;
 - (c) the Regulator's power under paragraph (3) to remove the manager if satisfied as to any such failure; and
 - (d) the manager's right to make representations to the Regulator in respect of any such alleged failure within such reasonable time as is specified in the notice.
- The Regulator may remove a manager (whether or not he also exercises the power conferred by regulation 30(3)) if—
- (1) the time specified in the notice referred to in paragraph (2) has expired; and
 - (2) the Regulator—
 - (i) has considered such representations, if any, as are duly made in response to such a notice; and
 - (ii) is satisfied that the manager has failed in such manner as is set out in paragraph (1)(a)(i) or (ii) and specified in such notice.

Reports

The manager must make such reports to the Regulator as the Regulator may from time to time require on such matters and in such form as the Regulator specifies.

Transitional provisions etc in connection with the commencement of the Financial Services Act 2012 (Transitional Provisions) (Miscellaneous Provisions) Order 2013, SI 2013/442, art 20 [8.533].

[7.351]

[191C Orders for sale of shares

(1) The court may, on the application of the [appropriate regulator], order the sale of disposition of voting power in the following circumstances.

- (2) The circumstances are that—
(a) a person has control over a UK authorised person by virtue of holding the shares; and
(b) the acquisition or continued holding of the shares or voting power by that person is in contravention of a final notice which confirms a decision notice given under section 191A.

[2A] Where the appropriate regulator is the PRA, it must consult the FCA before application to the court under this section.

[2B] Where the appropriate regulator is the FCA, it must consult the PRA before application to the court under this section if—

- (a) the UK authorised person has as a member of its immediate group a PRA-authorised person, or
(b) the person holding the shares or voting power is a PRA-authorised person.]

(3) Where the court orders the sale of shares or disposition of voting power it may—

- (a) if a restriction notice has been given in relation to the shares or voting power, the restrictions cease to apply; and
(b) make any further order.

(4) Where the court makes an order under this section, it must take into account the holding that the person would have been entitled to acquire, or to continue to hold, in contravention of the final notice.

(5) If shares are sold or voting power disposed of in pursuance of an order under this section, the proceeds, less the costs of the sale or disposition, must be paid into court for the benefit of persons beneficially interested in them; and any such person may apply to the court for payment of a whole or part of the proceeds.

(6) The jurisdiction conferred by this section may be exercised by the High Court and the Court of Session.]

NOTES

Substituted, subject to transitional provisions, as noted to s 178 at [7.332]. Words in square brackets in sub-s (1) substituted, and sub-ss (2A), (2B) inserted, by the Financial Services Act 2012 (Transitional Provisions) (Miscellaneous Provisions) Order 2013, SI 2013/442, art 30 (see the note at [8.533]).

[Notice of reductions of control of UK authorised persons

[7.352]

191D Obligation to notify the [appropriate regulator]: dispositions of control

(1) A person who decides to reduce or cease to have control over a UK authorised person must give the [appropriate regulator] notice in writing before making the disposition.

[1A] The PRA must give the FCA a copy of any notice it receives under this section.

[1B] The FCA must give the PRA a copy of any notice it receives under this section which—

- (a) relates to a UK authorised person who has as a member of its immediate group a PRA-authorised person, or
(b) is given by a PRA-authorised person.]

(2) For the purposes of calculations relating to this section, the holding of shares or voting power by a person ("A1") includes any shares or voting power held by another ("A2") if A1 and A2 are acting in concert.]

NOTES

Substituted, subject to transitional provisions, as noted to s 178 at [7.332]. Words "appropriate regulator" in square brackets (in each place that they occur) substituted, and sub-ss (1A), (1B) inserted, by the Financial Services Act 2012, s 26(1), (2), (10), as from 1 April 2013.

Transitional provisions etc in connection with the commencement of the Financial Services Act 2012 (Transitional Provisions) (Miscellaneous Provisions) Order 2013, SI 2013/442, art 20 (see the note at [8.533]).

[7.353]

[191E Requirements for notices under section 191D

(1) A notice under section 191D must be in such form, include such information and be accompanied by such documents as the [appropriate regulator] may reasonably require.

(2) [Each regulator] must publish a list of its requirements as to the form, information and accompanying documents for a notice under section 191D.

(3) The [appropriate regulator] may impose different requirements for different cases and may vary or waive requirements in particular cases.]

subject to transitional provisions, as noted to s 178 at [7.332]. Words in square brackets substituted by the Financial Services Act 2012, s 26(1), (2), (11), as from 1 April 2013.

[Offences

Offences under this Part

A person who fails to comply with an obligation to notify the [appropriate regulator] under section 191D(1) is guilty of an offence.

A person who gives notice to the [appropriate regulator] under section 178(1) and makes the acquisition to which the notice relates before the expiry date of the assessment period is guilty of an offence if the [appropriate regulator] has approved the acquisition or given a warning notice under section 189(4)(b)(i).

A person who contravenes an interim condition in a warning notice given under section 189(7) or a final notice given under section 189(4)(b)(i) or a condition in a decision notice given under section 189(7) or a final notice given under section 189(4)(b)(i) or a condition in a decision notice under that section is guilty of an offence.

A person who makes an acquisition in contravention of a warning notice given under section 189(7) or a decision notice given under section 189(7) or a final notice which confirms a decision notice under that section is guilty of an offence.

A person who makes an acquisition after the [appropriate regulator's] approval for the acquisition has ceased to be effective by virtue of section 191 is guilty of an offence.

A person who provides information to the [appropriate regulator] which is false in a material particular is guilty of an offence.

A person who breaches a direction contained in a restriction notice given under section 191B is guilty of an offence.

A person who is guilty of an offence under subsection (1) to (3) or (5) to (7) is liable—

(a) if the offence is a summary offence, to a fine not exceeding the statutory maximum; or

(b) if the offence is an indictable offence, to a fine not exceeding the statutory maximum; or

(c) if the offence is an indictable offence, to imprisonment for a term not exceeding two years or a fine, or both.]

subject to transitional provisions, as noted to s 178 at [7.332]. Words in square brackets substituted by the Financial Services Act 2012, s 26(1), (2), as from 1 April 2013.

Transitional provisions etc in connection with the commencement of the Financial Services Act 2012 (Transitional Provisions) (Miscellaneous Provisions) Order 2013, SI 2013/442, art 30 (see the note at [8.533]).

[Interpretation

Interpretation

Section 191D(1) means the acquisition of control or of an increase in control over a UK authorised person.

"UK authorised person" is to be read in accordance with section 178(2A); and "appropriate regulator" means—

(a) the PRA, if the person is a credit institution authorised under the [capital requirements directive]; or

(b) the FCA, if the person is an institution which would satisfy the requirements for authorisation as a credit institution under that directive if it had its registered office (or if it does not have a registered office, its head office) in an EEA State;

and "EEA State" has the same meaning as in section 422;

"PRA-authorised person" means an authorised person who—

(a) is a body incorporated in, or an unincorporated association formed under the law of, any part of the United Kingdom; and

(b) is not a person authorised as a result of paragraph 1 of Schedule 5; and "working day" has the same meaning as in section 422.

For the purposes of this Part, a "working day" is a day other than—

(a) a Saturday or a Sunday; or

(b) a day which is a bank holiday in England and Wales under the Banking and Financial Services Act 1971.]

subject to transitional provisions, as noted to s 178 at [7.332]. Words in square brackets in the definition "credit institution" substituted by the Capital Requirements Regulations 2013, SI 2013/170, Sch 2, Pt 1, paras 1, 13, as from 1 January 2014.

- (5) Notwithstanding paragraph (1), an existing umbrella company may, during its compliance period, continue to enter into transactions or contracts subject to a master agreement provided that such master agreement was in force prior to the date on which these Regulations come into force.
- (6) Regulation 33C of the Principal Regulations shall not apply to an existing umbrella company during its compliance period.
- (7) Regulations 11A and 33C of the Principal Regulations shall apply to an existing umbrella company during its compliance period from the date on which effect may be given to the proposal under regulation 21(3) of the Principal Regulations.
- (8) Regulations 21 and 22 of the Principal Regulations apply to any proposed alteration to an instrument of incorporation under paragraph (2) of this regulation with the exception of paragraph (2) of regulation 21.
- (9) Any notice given under paragraph (2) shall be accompanied by a notification in such form as the Authority may require that the umbrella company does not have any agreements or contracts with a third party the provisions of which are inconsistent with paragraph (1) or (2) of regulation 11A of the Principal Regulations.
- (10) Paragraph 5(1) of Schedule 2 to the Principal Regulations shall not apply to any alteration to an instrument of incorporation made in accordance with paragraph (2) of this regulation.
- (11) An umbrella company which contravenes any provision of this regulation is to be treated for the purposes of Part 8 of the Principal Regulations as having contravened a provision of those Regulations.

5 Further transitional provisions for micro-businesses

Save as provided in regulation 10, regulations 11A and 33C of and paragraph 2(ba) of Schedule 2 to the Principal Regulations shall not apply in relation to a micro-business during the compliance period.

6 The compliance period for micro-businesses

- (1) The compliance period for micro-businesses is the period of 3 years beginning with the date on which these Regulations come into force.
- (2) After the end of the compliance period described in paragraph (1) and for the purposes of regulation 4, a micro-business shall be treated as an existing umbrella company in relation to which the compliance period described in regulation 4(3) has ended.

7 Definition of a micro-business

A micro-business means—

- (a) an existing umbrella company the authorised corporate director of which has fewer than 10 employees and does not have an authorised corporate director, on the date on which these Regulations come into force;
- (b) an umbrella company in respect of which an authorisation order is made during the period beginning with the date on which these Regulations come into force and ending three years after that date, the authorised corporate director of which has fewer than 10 employees or which does not have an authorised corporate director on the date on which the authorisation order is made.

8 Number of employees of an authorised corporate director

For the purposes of these Regulations, the number of employees of an authorised corporate director is calculated as follows—

$$TH / 37.5$$

where TH is the total number of hours per week for which all the employees of the authorised corporate director are contracted to work.

9 Employees of an authorised corporate director

For the purposes of these Regulations, the employees of an authorised corporate director are the persons who are employed for the purposes of the authorised corporate director.

10 Voluntary compliance by micro-businesses

- (1) Nothing in these Regulations shall prevent—
 - (a) a micro-business described in regulation 7(b) complying with regulation 11A of the Principal Regulations and effecting compliance with paragraph 2(ba) of Schedule 2 to those Regulations from the date on which the umbrella company is authorised; or
 - (b) any micro-business complying with regulation 11A of the Principal Regulations and giving written notice, subject to regulation 4(7) to (10), to the Authority that it proposes to alter its instrument of incorporation before the end of the compliance period described in regulation 6(1) to effect compliance with paragraph 2(ba) of Schedule 2 to those Regulations.
- (2) Where either of the conditions described in paragraph (1) is met by a micro-business, regulation 33C of the Principal Regulations shall apply to that micro-business from the date on which it effected compliance with paragraph 2(ba) of Schedule 2 to those Regulations.

See also the Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) (No. 4) Order SI 2013/2984, art 3, which provides as follows (note that the "Amendment Regulations" are the 2011 Regulations (as set out above) and that the 2013 Order came into force on 19 December 2013)—

"3 Transitional provisions

- (1) For the purposes of a provision of the Amendment Regulations listed in paragraph (2), a request, notice, notification or direction made to, or as the case may be, by the FCA in the relevant period is to be treated as it would have been treated—
 - (a) if it had been made on the day on which this Order comes into force, and
 - (b) as if, in regulation 4(4), the words "but prior to the expiry of a period of 23 months from the date on which these Regulations come into force" were omitted.
- (2) The provisions are—
 - (a) regulation 4 (transitional provisions);
 - (b) regulation 10 (voluntary compliance by micro-businesses).
- (3) In this article, "the relevant period" means the period beginning on 1st April 2013 and ending immediately before this Order comes into force."

Cross sub-fund investment

Notwithstanding section 658 of the Companies Act 2006 and any rule of law which prohibits or restricts a company from acquiring its own shares, an umbrella company may, for the account of its sub-funds, and in accordance with [FCA rules], acquire by subscription or transfer for its sub-funds, and in accordance with [FCA rules], acquire by subscription or transfer for its sub-funds, shares of any class or classes, however described, representing other sub-funds of the umbrella company.]

Authorisation

Any application for an authorisation order in respect of a proposed open-ended investment must be made in such manner as the Authority may direct;

Applications for authorisation

- must state with respect to each person proposed in the application as a director of the company the particulars set out in regulation 13;
- must state the corporate name and registered or principal office of the person proposed in the application as depositary of the company; and
- must contain or be accompanied by such other information as the Authority may require for the purpose of determining the application.

After receiving an application and before determining it the Authority may require the applicant to furnish additional information.

Different directions may be given and different requirements imposed in relation to different applications.

Any information to be furnished to the Authority under this regulation must be in such form as may be specified in such manner as it may specify.

A person commits an offence if—
 for the purposes of or in connection with any application under this regulation; or
 in purported compliance with any requirement imposed on him by or under this regulation; or
 in furnishing information which he knows to be false or misleading in a material particular; or
 in furnishing information which is false or misleading in a material particular.

A person guilty of an offence under paragraph (5) is liable—
 on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;

on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both.

Particulars of directors

Subject to paragraph (2), an application for an authorisation order must contain the following particulars with respect to each person proposed as a director of the company—

- in the case of an individual, his present name, any former name, his usual residential address, his nationality, his business occupation (if any), particulars of any other directorships held by him or which have been held by him and his date of birth;
- in the case of a body corporate [or firm that is a legal person under the law by which it is governed], its corporate or firm name and the address of its registered or principal office.

The application need not contain particulars of a directorship—
 which has not been held by a director at any time during the 5 years preceding the date on which the application is delivered to the Authority;

which is held by a director in a body corporate which is dormant and, if he also held that directorship for any period during those 5 years, which was dormant for the whole of that period; or

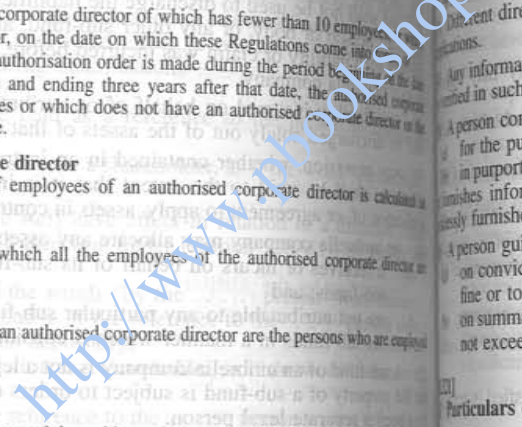
which was held by a director for any period during those 5 years in a body corporate which was dormant for the whole of that period.

For the purposes of paragraph (2), a body corporate is dormant during a period in which no significant transaction occurs; and it ceases to be dormant on the occurrence of such a transaction.

In paragraph (1)(a)—

the name means a person's Christian name (or other forename) and surname, except that in the case of a peer, or an individual usually known by a title, the title may be stated instead of his Christian name (or other forename) and surname or in addition to either or both of them;

the reference to a former name does not include—



- (a) to take into his custody or under his control all the property to which the company appears to be entitled;
 - (b) to dispose of perishable goods and other goods the value of which is likely to diminish if they are not immediately disposed of; and
 - (c) to do all such other things as may be necessary for the protection of the company's assets.
- (4) The liquidator shall attend the creditors' meeting held under section 98 and shall report to the meeting on any exercise by him of his powers (whether or not under this section or under section 112 or 165).
- (5) If default is made—
- (a) by the company in complying with subsection (1)[, (1A)] or (2) of section 98, or
 - (b) by the directors in complying with subsection (1)[, (2) or (2A)] of section 99,
- the liquidator shall, within 7 days of the relevant day, apply to the court for directions as to the manner in which that default is to be remedied.
- (6) "The relevant day" means the day on which the liquidator was nominated by the company on the day on which he first became aware of the default, whichever is the later.
- (7) If the liquidator without reasonable excuse fails to comply with this section, he is liable to a fine.

NOTES

Sub-s (1A): inserted by the Bankruptcy and Diligence etc (Scotland) Act 2007, s 155(1), (3), as from 22 April 2009.

Sub-s (5): figure in square brackets in para (a) inserted by the Legislative Reform (Insolvency) (Advertising Requirements) Order 2009, SI 2009/864, arts 2, 3(3), 4, as from 6 April 2009, except in respect of a company in voluntary winding up where the resolution to wind up was passed before that date; words in square brackets in para (b) substituted by the Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2010, SI 2010/18, arts 2, 5(5), as from 6 April 2010.

[9.256]**167 Winding up by the court**

- (1) Where a company is being wound up by the court, the liquidator may—
- (a) with the sanction of the court or the liquidation committee, exercise any of the powers specified in Parts I and II of Schedule 4 to this Act (payment of debts; claims; etc; institution and defence of proceedings; carrying on of the business of the company), and
 - (b) with or without that sanction, exercise any of the general powers specified in Part III of that Schedule.
- (2) Where the liquidator (not being the official receiver), in exercise of the powers conferred on him by this Act—
- (a) disposes of any property of the company to a person who is connected with the company (within the meaning of section 249 in Part VII), or
 - (b) employs a solicitor to assist him in the carrying out of his functions,
- he shall, if there is for the time being a liquidation committee, give notice to the committee of that exercise of his powers.
- (3) The exercise by the liquidator in a winding up by the court of the powers conferred by this section is subject to the control of the court, and any creditor or contributory may apply to the court with respect to any exercise or proposed exercise of any of those powers.

[9.257]**168 Supplementary powers (England and Wales)**

- (1) This section applies in the case of a company which is being wound up by the court in England and Wales.
- (2) The liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes; and it is his duty to summon meetings at such times as the creditors or contributories by resolution (either at the meeting appointing the liquidator or otherwise) may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories (as the case may be).
- (3) The liquidator may apply to the court (in the prescribed manner) for directions in relation to any particular matter arising in the winding up.
- (4) Subject to the provisions of this Act, the liquidator shall use his own discretion in the management of the assets and their distribution among the creditors.
- (5) If any person is aggrieved by an act or decision of the liquidator, that person may apply to the court; and the court may confirm, reverse or modify the act or decision complained of, and make such order in the case as it thinks just.
- [(5A) Where at any time after a winding-up petition has been presented to the court against any person (including an insolvent partnership or other body which may be wound up under Part V of the Act as an unregistered company), whether by virtue of the provisions of the Insolvent Partnerships Order 1994 or not, the attention of the court is drawn to the fact that the person in question is a member of an insolvent partnership, the court may make an order as to the future conduct of the insolvency proceedings and any such order may apply any provisions of that Order with any necessary modifications.]

Any order or directions under subsection (5A) may be made or given on the application of the official receiver, any responsible insolvency practitioner, the trustee of the partnership or any interested person and may include provisions as to the administration of the joint estate of the partnership, and in particular how it and the separate estate of any member are to be administered.

Where the court makes an order for the winding up of an insolvent partnership under—

- (a) section 72(1)(a) of the Financial Services Act 1986;
- (b) section 92(1)(a) of the Banking Act 1987; or
- (c) section 367(3)(a) of the Financial Services and Markets Act 2000,

the court may make an order as to the future conduct of the winding up proceedings, and any such order may apply any provisions of the Insolvent Partnerships Order 1994 with any necessary modifications.]

Sub-s (5A), (5B): added, together with sub-s (5C), by the Insolvent Partnerships Order 1994, SI 1994/2421, art 14(1), as from 1 December 1994.

Sub-s (5C): added as noted above. It was repealed by the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001, SI 2001/3649, art 306, as from 1 December 2001, but was subsequently substituted by the Financial Services and Markets Act 2000 (Consequential Amendments) Order 2002, SI 2002/1555, art 15, as from 3 July 2002, which further provided that the repeal by SI 2001/3649 was to be treated as if it had not been made.

Supplementary powers (Scotland)

(1) This section applies with respect to the removal from office and vacation of office of the liquidator in the case of a winding up in Scotland, the court may provide by order that the liquidator where there is no liquidation committee, exercise any of the following powers, namely—

- (a) to bring or defend any action or other legal proceeding in the name and on behalf of the company;
- (b) to carry on the business of the company so far as may be necessary for its beneficial winding up;
- (c) to apply to the court for any sanction or intervention of the court.

(2) Where the liquidator is appointed by the court in Scotland, the liquidator has (subject to the rules) the same powers as a trustee on a bankrupt estate.

Enforcement of liquidator's duty to make returns, etc

(1) A liquidator who has made any default—

- (a) in filing, delivering or making any return, account or other document, or
- (b) in giving any notice which he is by law required to file, deliver, make or give,

to make good the default within 14 days after the service on him of a notice requiring him to do so, the court has the following powers.

(2) On an application made by any creditor or contributory of the company, or by the registrar of companies, the court may make an order directing the liquidator to make good the default within such time as may be specified in the order.

(3) The court's order may provide that all costs of and incidental to the application shall be borne by the liquidator.

(4) Nothing in this section prejudices the operation of any enactment imposing penalties on a liquidator in respect of any such default as is mentioned above.

In relation to Scotland: see the Note at the beginning of this Act.

Removal; vacation of office**Removal, etc (voluntary winding up)**

This section applies with respect to the removal from office and vacation of office of the liquidator of a company which is being wound up voluntarily.

(1) Subject to the next subsection, the liquidator may be removed from office only by an order of the court or—

- (a) in the case of a members' voluntary winding up, by a general meeting of the company summoned specially for that purpose, or
- (b) in the case of a creditors' voluntary winding up, by a general meeting of the company's creditors summoned specially for that purpose in accordance with the rules.

(2) Where the liquidator was appointed by the court under section 108 in Chapter V, a meeting as is mentioned in subsection (2) above shall be summoned for the purpose of replacing him if he thinks fit or the court so directs or the meeting is requested, in accordance with the rules.

(3) In the case of a members' voluntary winding up, by members representing not less than one-half of the total voting rights of all the members having at the date of the request a right to vote at the meeting, or

(4) in the case of a creditors' voluntary winding up, by not less than one-half, in value, of the company's creditors.

- (ii) his conduct as director or shadow director of that company was not as alleged in support of the application for a disqualification order,
- (b) whether, in the case of any conduct of his, he disputes the allegation that such conduct makes him unfit to be concerned in the management of a company, and
- (c) whether he, while not resisting the application for a disqualification order, intends to adduce mitigating factors with a view to justifying only a short period of disqualification.

NOTES

Para (1): words in square brackets substituted by the Insolvent Companies (Disqualification of Unfit Directors) Proceedings (Amendment) Rules 1999, SI 1999/1023, r 3, Schedule, para 1, as from 26 April 1999.

Para (3): substituted by SI 1999/1023, r 3, Schedule, para 4(1), as from 26 April 1999.

Para (4): words omitted revoked, and word in square brackets substituted, by SI 1999/1023, r 3, Schedule, paras 1.42 to 1.44, as from 26 April 1999.

[10.681]

6 Evidence

(1) The [defendant] shall, within 28 days from the date of service of the [claim form], file in court any affidavit evidence in opposition to the application he wishes the court to take into consideration and shall forthwith serve upon the [claimant] a copy of such evidence.

(2) The [claimant] shall, within 14 days from receiving the copy of the [defendant]'s evidence, file in court any further evidence in reply he wishes the court to take into consideration and shall forthwith serve a copy of that evidence upon the [defendant].

[(3) CPR rules 8.5 (filing and serving written evidence) and 8.6(1) (requirements where written evidence is to be relied on) do not apply.]

NOTES

Paras (1), (2): words in square brackets substituted by the Insolvent Companies (Disqualification of Unfit Directors) Proceedings (Amendment) Rules 1999, SI 1999/1023, r 3, Schedule, para 1, as from 26 April 1999.

Para (3): added by SI 1999/1023, r 3, Schedule, para 5, as from 26 April 1999.

[10.682]

7 The hearing of the application

[(1) When the claim form is issued, the court will fix a date for the first hearing of the claim which shall not be less than 8 weeks from the date of issue of the claim form.]

(2) The hearing shall in the first instance be before the registrar in open court.

(3) The registrar shall either determine the case on the date fixed or adjourn it.

(4) The registrar shall adjourn the case for further consideration if—

- (a) he forms the provisional opinion that a disqualification order ought to be made, and that a period of disqualification longer than 5 years is appropriate, or
- (b) he is of opinion that questions of law or fact arise which are not suitable for summary determination.

(5) If the registrar adjourns the case for further consideration he shall—

- (a) direct whether the case is to be heard by a registrar or, if he thinks it appropriate, by the judge, for determination by him;
- (b) state the reasons for the adjournment; and
- (c) give directions as to the following matters—
 - (i) the manner in which and the time within which notice of the adjournment and the reasons for it are to be given to the [defendant],
 - (ii) the filing in court and the service of further evidence (if any) by the parties,
 - (iii) such other matters as the registrar thinks necessary or expedient with a view to an expeditious disposal of the application, and
 - (iv) the time and place of the adjourned hearing.

(6) Where a case is adjourned other than to the judge, it may be heard by the registrar who originally dealt with the case or by another registrar.

NOTES

Para (1): substituted by the Insolvent Companies (Disqualification of Unfit Directors) Proceedings (Amendment) Rules 1999, SI 1999/1023, r 3, Schedule, para 6, as from 26 April 1999.

Para (5): word in square brackets in sub-para (c) substituted by SI 1999/1023, r 3, Schedule, para 1, as from 26 April 1999.

[10.683]

8 Making and setting aside of disqualification order

(1) The court may make a disqualification order against the [defendant], whether or not the latter appears, and whether or not he has completed and returned the acknowledgement of service of the [claim form], or filed evidence in accordance with Rule 6.

(2) Any disqualification order made in the absence of the [defendant] may be set aside or varied by the court on such terms as it thinks just.

square brackets substituted by the Insolvent Companies (Disqualification of Unfit Directors) Proceedings (Amendment) Rules 1999, SI 1999/1023, r 3, Schedule, para 1, as from 26 April 1999.
by the Insolvent Companies (Disqualification of Unfit Directors) Proceedings (Amendment) Rules 2001, SI 2001/765, as from 2 April 2001.

Right of audience

Official receivers and deputy official receivers have right of audience in any proceedings to which these Rules apply, whether the application is made by the Secretary of State or by the official receiver, and whether made in the High Court or a county court.

Education and saving

Notwithstanding paragraph (1) the former Rules shall continue to apply and have effect in relation to any application described in paragraph 3(a) or (b) of Rule 1 of these Rules made before the date on which these Rules come into force.

revokes the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1986, SI 1986/612.

DEPARTMENT OF TRADE AND INDUSTRY (FEES) ORDER 1988
(SI 1988/93)

20 January 1988.
Finance (No 2) Act 1987, s 102.
Government: 22 January 1988.
This Order is reproduced as amended by: the Wireless Telegraphy Act 1998; the Department of Trade and Industry (Fees) Order 1995, SI 1995/1294; the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001, SI 2001/3649.
References to "the European Community", "Community", etc: see the Treaty of Lisbon (Changes in Terminology) (SI 2011/1043), which provides that (as from 22 April 2011) "EU" should be substituted for the word "Community" in certain exceptions in references to "Community treaties", "Community instrument", "Community obligation", "Community law", "Community legislation", etc.
References to Rules and Regulations made under this Order (concerning patents and trade marks) are outside the scope of this Order. The Department of Trade and Industry is now known as the Department for Business, Innovation & Skills.

ARRANGEMENT OF ARTICLES

Interpretation	[10.686]
Application and commencement	[10.687]
Revocation and amendment	[10.688]
Education and saving	[10.689]
Right of audience	[10.690]
Education and saving	[10.691]
Right of audience	[10.692]
Education and saving	[10.693]
Right of audience	[10.694]

SCHEDULES

SCHEDULE 1	[10.691]
SCHEDULE 2	[10.692]
SCHEDULE 3	[10.693]
SCHEDULE 4	[10.694]

Application and commencement

This Order may be cited as the Department of Trade and Industry (Fees) Order 1988, and shall come into force on the day after the day on which it is made.

Interpretation

References to "the Act" means the Finance (No 2) Act 1987;

**PART 15
STATUTORY AUDITORS**

48 Extension of Part 42

**PART 16
OFFENCES**

49 Liability of member in default

50 General provisions

**PART 17
LLPS: SUPPLEMENTARY AND INTERPRETATION**

51 Courts and legal proceedings

52 Meaning of "undertaking" and related expressions

53 Meaning of "dormant"

54 Requirements of this Act

55 Minor definitions

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**PART 18
FINAL PROVISIONS**

58 Revocation and transitional provisions

**PART 1
GENERAL INTRODUCTORY PROVISIONS**

[10.1007]

1 Citation and commencement

These Regulations may be cited as the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 and come into force on 1st October 2008.

[10.1008]

2 Application

(1) Subject to paragraphs (2) to (11), these Regulations apply to accounts for financial years beginning on or after 1st October 2008.

(2) Any question whether—

- (a) for the purposes of section 382, 383, 384(3) or 467(3) of the Companies Act 2006, as applied to limited liability partnerships by regulations 5 and 26, a limited liability partnership or group qualified as small in a financial year beginning before 1st October 2008, or
- (b) for the purposes of section 465 or 466 of that Act, as applied to limited liability partnerships by regulation 26, a limited liability partnership or group qualified as medium-sized in any such financial year,

is to be determined by reference to the corresponding provisions of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986 as applied to limited liability partnerships by the Limited Liability Partnerships Regulations 2001 or the Limited Liability Partnerships Regulations (Northern Ireland) 2004.

(3) Sections 485 to 488 of the Companies Act 2006, as applied to limited liability partnerships by regulation 36, apply in relation to appointments of auditors for financial years beginning on or after 1st October 2008.

(4) Sections 492, 494 and 499 to 501 of the Companies Act 2006, as applied to limited liability partnerships by regulations 37, 38 and 40, apply to auditors appointed for financial years beginning on or after 1st October 2008.

(5) Section 502 of the Companies Act 2006, as applied to limited liability partnerships by regulation 40, applies to auditors appointed on or after 1st October 2008.

(6) Sections 495, 498 and 503 to 509 of the Companies Act 2006, as applied to limited liability partnerships by regulations 39 to 42, apply to auditors' reports on accounts for financial years beginning on or after 1st October 2008.

(7) Sections 510 to 513 of the Companies Act 2006, as applied to limited liability partnerships by regulations 43 and 44, apply where notice of the proposed removal is given to the auditor on or after 1st October 2008.

(8) Section 515 of the Companies Act 2006, as applied to limited liability partnerships by regulation 45, applies to appointments of auditors for financial years beginning on or after 1st October 2008.

(9) Sections 516 to 518 of the Companies Act 2006, as applied to limited liability partnerships by regulation 45, apply to resignations occurring on or after 1st October 2008.

(10) Sections 519 to 525 of the Companies Act 2006, as applied to limited liability partnerships by regulation 46, apply where the auditor ceases to hold office on or after 1st October 2008.

section 526 of the Companies Act 2006, as applied to limited liability partnerships by regulation 46, applies where the vacancy occurs on or after 1st October 2008.

Interpretation

These Regulations—

"the Act" means the Companies Act 1985, and "the Order" means the Companies (Northern Ireland) Order 1986, and "LLP" means a limited liability partnership [registered under the Limited Liability Partnerships Act 2000].

These Regulations, unless the context otherwise requires—

any reference to a numbered Part, section or Schedule is to the Part, section or Schedule so numbered in the Companies Act 2006,

references in provisions applied to LLPs to other provisions of the Companies Act 2006 are to those provisions as applied to LLPs by these Regulations, and

references in provisions applied to LLPs to provisions of the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989 are to those provisions as applied to LLPs by the Limited Liability Partnerships Regulations 2001 or the Limited Liability Partnerships Regulations (Northern Ireland) 2004.

words in square brackets substituted by the Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009, SI 2009/1804, reg 85, Sch 3, Pt 2, para 15(1), (2), as from 1 October 2009.

note as to interpretation: as to the meaning of "the registrar" and "the register", and as to the construction of "registration" in a particular part of the United Kingdom, in any enactment relating to LLPs, see the Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009, SI 2009/1804, Sch 3, Pt 2, para 12 at [10.1185].

Part 15 as applied to LLPs

Part 15 applies to LLPs, modified so that it reads as follows—

Scheme of this Part

The requirements of this Part as to accounts and auditors' reports apply in relation to each financial year of an LLP.

In certain respects different provisions apply to different kinds of LLP.

The main distinctions for this purpose are between LLPs subject to the small LLPs regime (see section 381) and LLPs that are not subject to that regime.

In this Part, where provisions do not apply to all kinds of LLP, provisions applying to LLPs subject to the small LLPs regime appear before the provisions applying to other LLPs."

**PART 2
LLPS QUALIFYING AS SMALL**

LLPs subject to the small LLPs regime

Sections 381 to 384 apply to LLPs, modified so that they read as follows—

LLPs subject to the small LLPs regime

Sections 381 to 384 apply to an LLP for a financial year in relation to which the LLP—

- (a) qualifies as small (see sections 382 and 383), and
- (b) is not excluded from the regime (see section 384).

LLPs qualifying as small: general

An LLP qualifies as small in relation to its first financial year if the qualifying conditions are met in that year.

An LLP qualifies as small in relation to a subsequent financial year—

- (a) if the qualifying conditions are met in that year and the preceding financial year;
- (b) if the qualifying conditions are met in that year and the LLP qualified as small in relation to the preceding financial year;
- (c) if the qualifying conditions were met in the preceding financial year and the LLP qualified as small in relation to that year.

The qualifying conditions are met by an LLP in a year in which it satisfies two or more of the following requirements—

- | | |
|------------------------|-----------------------------|
| 1. Turnover | Not more than £6.5 million |
| 2. Balance sheet total | Not more than £3.26 million |
| 3. Number of employees | Not more than 50 |

For a period that is an LLP's financial year but not in fact a year the maximum figures for turnover must be proportionately adjusted.

in respect of that usual residential address where it was placed on the register on or after 1st January 2003;” and

- (g) omit regulation 10.

1089 Form of application for inspection or copy

The registrar may specify the form and manner in which application is to be made for—

- (a) inspection under section 1085, or
(b) a copy under section 1086.

1090 Form and manner in which copies to be provided

The registrar may determine the form and manner in which copies are to be provided.

1091 Certification of copies as accurate

(1) Copies provided under section 1086 in hard copy form must be certified as true copies unless the applicant dispenses with such certification.

(2) Copies so provided in electronic form must not be certified as true copies unless the applicant expressly requests such certification.

(3) A copy provided under section 1086, certified by the registrar (whose official position it is unnecessary to prove) to be an accurate record of the contents of the original document, is in all legal proceedings admissible in evidence—

- (a) as of equal validity with the original document, and
(b) as evidence (in Scotland, sufficient evidence) of any fact stated in the original document of which direct oral evidence would be admissible.

(4) Regulation 2 of the Companies (Registrar, Languages and Trading Disclosures) Regulations 2006 (SI 2006/3429) (certification of electronic copies by registrar) applies where the copy is provided in electronic form.

(5) Copies provided by the registrar may, instead of being certified in writing to be an accurate record, be sealed with the registrar’s official seal.”

NOTES

In s 1087 as set out above, sub-s (1)(i) was revoked by the Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013, SI 2013/618, reg 4, as from 6 April 2013, in relation to charges created on or after that date (see the transitional provisions note at [10.1134]).

[10.1157]

67 Correction or removal of material on the register

Sections 1093 to 1098 apply to LLPs, modified so that they read as follows—

“1093 Registrar’s notice to resolve inconsistency on the register

(1) Where it appears to the registrar that the information contained in a document delivered to the registrar is inconsistent with other information on the register, the registrar may give notice to the LLP to which the document relates—

- (a) stating in what respects the information contained in it appears to be inconsistent with other information on the register, and
(b) requiring the LLP to take steps to resolve the inconsistency.

(2) The notice must—

- (a) state the date on which it is issued, and
(b) require the delivery to the registrar, within 14 days after that date, of such replacement or additional documents as may be required to resolve the inconsistency.

(3) If the necessary documents are not delivered within the period specified, an offence is committed by—

- (a) the LLP, and
(b) every member of the LLP who is in default.

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 5 on the standard scale.

1094 Administrative removal of material from the register

(1) The registrar may remove from the register anything that there was power, but no duty, to include.

(2) This power is exercisable, in particular, so as to remove—

- (a) unnecessary material within the meaning of section 1074, and
(b) material derived from a document that has been replaced under—

section 1076 (replacement of document not meeting requirements for proper delivery), or section 1093 (notice to remedy inconsistency on the register).

(3) This section does not authorise the removal from the register of—

- (a) anything whose registration has had legal consequences in relation to the LLP as regards—
(i) its formation,
(ii) a change of name,

- (iii) a change of registered office,
(iv) a change in the situation of a registered office,
(v) the registration of a charge, or
(vi) its dissolution;

(b) an address that is a person’s registered address for the purposes of section 1140 (service of documents on members and others).

(4) On or before removing any material under this section (otherwise than at the request of the LLP) the registrar must give notice—

(a) to the person by whom the material was delivered (if the identity, and name and address of that person are known), or

(b) to the LLP to which the material relates (if notice cannot be given under paragraph (a) and the identity of that LLP is known).

(5) The notice must—

(a) state what material the registrar proposes to remove, or has removed, and on what grounds, and

(b) state the date on which it is issued.

1095 Rectification of register on application to registrar

(1) The provisions of the Registrar of Companies and Applications for Striking Off Regulations 2009 (SI 2009/1803) requiring the registrar, on application, to remove from the register material that—

- (a) derives from anything invalid or ineffective or that was done without authority, or
(b) is factually inaccurate, or is derived from something that is factually inaccurate or forged,

apply to LLPs.

(2) Those provisions are—

- (a) regulations 4 and 5, and
(b) any other provisions of the regulations having effect for the purposes of those provisions.

(3) In those provisions as they apply to LLPs—

(a) for “company” substitute “LLP”, and for “relevant company form” substitute “relevant LLP form”;

(b) omit all references to overseas companies and overseas company forms;

(c) omit all references to secretaries;

(d) in regulation 4—

- (i) for paragraph (3) substitute—

“(3) A “relevant LLP form” is—

(a) a standard form required for giving notice under section 87 of the Companies Act 2006 (change of address of registered office) or section 9 of the Limited Liability Partnerships Act 2000 (c 12) (changes relating to members); or

(b) so much of a standard form required for delivering an application under section 2 of the Limited Liability Partnerships Act 2000 (incorporation document etc) as is required for the statement of those who are to be members of the LLP referred to in section 2(2)(e).”

(ii) omit paragraphs (4) and (6),

(iii) in paragraph (7) omit “or (6)”, and

(iv) in paragraph (8)(a), for “(2), (3), (4) or (5)” substitute “(2) or (3)”; and

(e) in regulation 5—

(i) in paragraph (1)(b), omit “or (6)”,

(ii) in paragraphs (2)(b) and (3)(b), for “director or secretary of the company” substitute “designated member of the LLP”,

(iii) omit paragraphs (4) to (7) and (16),

(iv) in paragraphs (8), (11), (12) and (14)(c), for “(2), (3), (4) or (5)” substitute “(2) or (3)”; and

(v) omit paragraph (8)(b) and (c).

(3) An application must—

(a) specify what is to be removed from the register and indicate where on the register it is, and

(b) be accompanied by a statement that the material specified in the application complies with this section and the regulations.

(4) If no objections are made to the application, the registrar may accept the statement as sufficient evidence that the material specified in the application should be removed from the register.

(5) Where anything is removed from the register under this section the registration of which had legal consequences as mentioned in section 1094(3), any person appearing to the court to have a sufficient interest may apply to the court for such consequential orders as appear just with respect to the legal effect (if any) to be accorded to the material by virtue of its having appeared on the register.

[11.226]

Article 18**Registration document schedule for collective investment undertakings of the closed-end type**

1. In addition to the information required pursuant to items 1, 2, 3, 4, 5.1, 7, 9.1, 9.2.1, 9.2.3, 10.4, 13, 14, 15, 16, 17.2, 18, 19, 20, 21, 22, 23, 24, 25 of Annex I, for the registration document for securities issued by collective investment undertakings of the closed-end type information shall be given in accordance with the schedule set out in Annex XV.

2. The schedule shall apply to collective investment undertakings of the closed-end type holding a portfolio of assets on behalf of investors that:

- (1) are recognised by national law in the Member State in which it is incorporated as a collective investment undertaking of the closed end type; or
- (2) do not take or seek to take legal or management control of any of the issuers of its underlying investments. In such a case, legal control and/or participation in the administrative, management or supervisory bodies of the underlying issuer(s) may be taken where such action is incidental to the primary investment objective, necessary for the protection of shareholders and only in circumstances where the collective investment undertaking will not exercise significant management control over the operations of that underlying issuer(s).

[11.227]

Article 19**Registration document schedule for Member States, third countries and their regional and local authorities**

1. For the registration document for securities issued by Member States, third countries and their regional and local authorities information shall be given in accordance with the schedule set out in Annex XVI.

2. The schedule shall apply to all types of securities issued by Member States, third countries and their regional and local authorities.

[11.228]

Article 20**Registration document schedule for public international bodies and for issuers of securities guaranteed by a member state of the OECD**

1. For the registration document for securities issued by public international bodies and for securities unconditionally and irrevocably guaranteed, on the basis of national legislation, by a state which is member of the OECD information shall be given in accordance with the schedule set out in Annex XVII.

2. The schedule shall apply to:

- all types of securities issued by public international bodies,
- to debt securities unconditionally and irrevocably guaranteed, on the basis of national legislation, by a state which is member of the OECD.

[11.229]

Article 20a**Additional information building block for consent given in accordance with Article 3(2) of Directive 2003/71/EC**

1. For the purposes of the third subparagraph of Article 3(2) of Directive 2003/71/EC, the prospectus shall contain the following:

- (a) the additional information set out in Sections 1 and 2A of Annex XXX where the consent is given to one or more specified financial intermediaries;
- (b) the additional information set out in Sections 1 and 2B of Annex XXX where the issuer or the person responsible for drawing up the prospectus chooses to give its consent to all financial intermediaries.

2. Where a financial intermediary does not comply with the conditions attached to consent as disclosed in the prospectus, a new prospectus shall be required in accordance with the second paragraph of Article 3(2) of Directive 2003/71/EC.]

NOTES

Inserted by Commission Delegated Regulation 862/2012/EU, Art 1(2), as from 22 September 2012, except in relation to the approval of a supplement to a prospectus or base prospectus where the prospectus or base prospectus was approved before that date.

[11.230]

Article 21**Combination of schedules and building blocks**

1. The use of the combinations provided for in the table set out in Annex XVIII shall be mandatory when drawing up prospectuses for the types of securities to which those combinations correspond according to this table.

However, for securities not covered by those combinations further combinations may be used.

the most comprehensive and stringent registration document schedule, ie the most demanding in term of number of information items and the extent of the information included in them, always be used to issue securities for which a less comprehensive and stringent registration schedule is provided for, according to the following ranking of schedules:

1. share registration document schedule;
2. debt and derivative securities registration document schedule for securities with a denomination per unit of less than EUR [100.000];
3. debt and derivative securities registration document schedule for securities with a denomination per unit at least EUR [100.000].

The issuer, the offeror and the person asking for admission to trading on a regulated market choose to draw up a prospectus in accordance with the proportionate schedules set out in Annexes XXIII to XXIX instead of the schedules set out in Annexes I, III, IV, IX, X and XI as provided in the second subparagraph provided that the respective conditions laid down in Annexes 26a, 26b and 26c are fulfilled.

The issuer, the offeror and the person asking for admission to trading on a regulated market shall choose:

- the reference to Annex I in Annex XVIII shall be read as a reference to Annex XXIII or XXV;
- the reference to Annex III in Annex XVIII shall be read as a reference to Annex XXIV;
- the reference to Annex IV in Annex XVIII shall be read as a reference to Annex XXVI;
- the reference to Annex IX in Annex XVIII shall be read as a reference to Annex XXVII;
- the reference to Annex X in Annex XVIII shall be read as a reference to Annex XXVIII;
- the reference to Annex XI in Annex XVIII shall be read as a reference to Annex XXIX.]

in square brackets in para 2 substituted, and para 3 added, by Commission Delegated Regulation 486/2012/EU, Art 2 as from 1 July 2012.

Information to be included in a base prospectus and its related final terms

A base prospectus shall be drawn up using one or a combination of schedules and building blocks provided for in this Regulation according to the combinations for various types of securities set out in Annex XVIII.

A base prospectus shall contain the information items required in Annexes I to XVII, Annex XX and Annexes XXIII to XXX depending on the type of issuer and securities involved. Competent authorities shall not require that a base prospectus contains information items which are not included in Annexes I to XVII, Annex XX or Annexes XXIII to XXX.]

In order to ensure conformity with the obligation referred to in Article 5(1) of Directive 2003/71/EC, the competent authority of the home Member State, when approving a base prospectus in accordance with Article 13 of that Directive, may, on a case-by-case basis, require the information provided by the issuer, the offeror or the person asking for admission to trading on a regulated market to be completed for each of the information items.

Where the issuer, the offeror or the person asking for the admission to trading on a regulated market is required to include a summary in a base prospectus, in accordance with Article 5(2) of Directive 2003/71/EC, the competent authority of the home Member State, when approving the prospectus in accordance with Article 13 of that Directive, may, on a case-by-case basis, require certain information provided in the base prospectus to be included in the summary.]

The base prospectus may contain options with regard to information categorised as Category A, Category B and Category C, required by the relevant securities note schedules and building blocks, and set out in Annex XX. The final terms shall determine which of these options is applicable to the individual issue, by referring to the relevant sections of the base prospectus or by stating such information.]

Where the issuer, the offeror or the person asking for admission to trading on a regulated market may not disclose information items which are not known when the base prospectus is approved and which can be determined at the time of the individual issue.

The use of the combinations provided for in the table in Annex XVIII shall be mandatory when drawing up base prospectuses for the types of securities to which those combinations correspond according to this table.

However, for securities not covered by those combinations further combinations may be used.

The final terms attached to a base prospectus shall only contain the following: information within the various securities notes schedules according to which the base prospectus is drawn up, the information items in Categories B and C listed in Annex XX. When an item is not applicable to a prospectus, the item shall appear in the final terms with the mention "not applicable";

— on a voluntary basis, any "additional information" set out in Annex XXI;

— any replication of, or reference to, options already provided for in the base prospectus which are applicable to the individual issue.

The final terms shall not amend or replace any information in the base prospectus.]

[11.284]

Article 3**Further national measures**

This Directive shall not prevent Member States from imposing further obligations on companies or from otherwise taking further measures to facilitate the exercise by shareholders of the rights referred to in this Directive.

CHAPTER II GENERAL MEETINGS OF SHAREHOLDERS

[11.285]

Article 4**Equal treatment of shareholders**

The company shall ensure equal treatment for all shareholders who are in the same position with regard to participation and the exercise of voting rights in the general meeting.

[11.286]

Article 5**Information prior to the general meeting**

1. Without prejudice to Articles 9(4) and 11(4) of Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids,¹ Member States shall ensure that the company issues the convocation of the general meeting in one of the manners specified in paragraph 2 of this Article not later than on the 21st day before the day of the meeting.

Member States may provide that, where the company offers the facility for shareholders to vote by electronic means accessible to all shareholders, the general meeting of shareholders may decide that it shall issue the convocation of a general meeting which is not an annual general meeting in one of the manners specified in paragraph 2 of this Article not later than on the 14th day before the day of the meeting. This decision is to be taken by a majority of not less than two thirds of the votes attaching to the shares or the subscribed capital represented and for a duration not later than the next annual general meeting.

Member States need not apply the minimum periods referred to in the first and second subparagraphs for the second or subsequent convocation of a general meeting issued for lack of a quorum required for the meeting convened by the first convocation, provided that this Article has been complied with for the first convocation and no new item is put on the agenda, and that at least 10 days elapse between the final convocation and the date of the general meeting.

2. Without prejudice to further requirements for notification or publication laid down by the competent Member State as defined in Article 1(2), the company shall be required to issue the convocation referred to in paragraph 1 of this Article in a manner ensuring fast access to it on a non-discriminatory basis. The Member State shall require the company to use such media as may reasonably be relied upon for the effective dissemination of information to the public throughout the Community. The Member State may not impose an obligation to use only media whose operators are established on its territory.

The Member State need not apply the first subparagraph to companies that are able to identify the names and addresses of their shareholders from a current register of shareholders, provided that the company is under an obligation to send the convocation to each of its registered shareholders.

In either case the company may not charge any specific cost for issuing the convocation in the prescribed manner.

3. The convocation referred to in paragraph 1 shall at least:

- (a) indicate precisely when and where the general meeting is to take place, and the proposed agenda for the general meeting;
- (b) contain a clear and precise description of the procedures that shareholders must comply with in order to be able to participate and to cast their vote in the general meeting. This includes information concerning:
 - (i) the rights available to shareholders under Article 6, to the extent that those rights can be exercised after the issuing of the convocation, and under Article 9, and the deadlines by which those rights may be exercised; the convocation may confine itself to stating only the deadlines by which those rights may be exercised, provided it contains a reference to more detailed information concerning those rights being made available on the Internet site of the company;
 - (ii) the procedure for voting by proxy, notably the forms to be used to vote by proxy and the means by which the company is prepared to accept electronic notifications of the appointment of proxy holders; and
 - (iii) where applicable, the procedures for casting votes by correspondence or by electronic means;
- (c) where applicable, state the record date as defined in Article 7(2) and explain that only those who are shareholders on that date shall have the right to participate and vote in the general meeting;
- (d) indicate where and how the full, unabridged text of the documents and draft resolutions referred to in points (c) and (d) of paragraph 4 may be obtained;

(e) indicate the address of the Internet site on which the information referred to in paragraph 4 will be made available.

Member States shall ensure that, for a continuous period beginning not later than on the 21 day before the day of the general meeting and including the day of the meeting, the company shall make available to its shareholders on its Internet site at least the following information:

- (a) the convocation referred to in paragraph 1;
- (b) the total number of shares and voting rights at the date of the convocation (including separate totals for each class of shares where the company's capital is divided into two or more classes of shares);
- (c) the documents to be submitted to the general meeting;
- (d) a draft resolution or, where no resolution is proposed to be adopted, a comment from a competent body within the company, to be designated by the applicable law, for each item on the proposed agenda of the general meeting; moreover, draft resolutions tabled by shareholders shall be added to the Internet site as soon as practicable after the company has received them;
- (e) where applicable, the forms to be used to vote by proxy and to vote by correspondence, unless those forms are sent directly to each shareholder.

Where the forms referred to in point (e) cannot be made available on the Internet for technical reasons, the company shall indicate on its Internet site how the forms can be obtained on paper. In any case the company shall be required to send the forms by postal services and free of charge to every shareholder who so requests.

Where, pursuant to Articles 9(4) or 11(4) of Directive 2004/25/EC, or to the second subparagraph of paragraph 1 of this Article, the convocation of the general meeting is issued later than on the 21st day before the meeting, the period specified in this paragraph shall be shortened accordingly.

NOTES

OJ L142, 30.4.2004, p 12.

12871

Sch 6

4.4 to put items on the agenda of the general meeting and to table draft resolutions

- Member States shall ensure that shareholders, acting individually or collectively:
- (a) have the right to put items on the agenda of the general meeting, provided that each such item is accompanied by a justification or a draft resolution to be adopted in the general meeting; and
 - (b) have the right to table draft resolutions for items included or to be included on the agenda of a general meeting.

Member States may provide that the right referred to in point (a) may be exercised only in relation to the annual general meeting, provided that shareholders, acting individually or collectively, have the right to call, or to require the company to call, a general meeting which is not an annual general meeting with an agenda including at least all the items requested by those shareholders.

Member States may provide that those rights shall be exercised in writing (submitted by postal services or electronic means).

Where any of the rights specified in paragraph 1 is subject to the condition that the relevant shareholder or shareholders hold a minimum stake in the company, such minimum stake shall not exceed 5% of the share capital.

Each Member State shall set a single deadline, with reference to a specified number of days prior to the general meeting or the convocation, by which shareholders may exercise the right referred to in paragraph 1, point (a). In the same manner each Member State may set a deadline for the exercise of the right referred to in paragraph 1, point (b).

Member States shall ensure that, where the exercise of the right referred to in paragraph 1, point (a) entails a modification of the agenda for the general meeting already communicated to shareholders, the company shall make available a revised agenda in the same manner as the previous agenda in advance of the applicable record date as defined in Article 7(2) or, if no record date applies, sufficiently in advance of the date of the general meeting so as to enable other shareholders to appoint a proxy or, where applicable, to vote by correspondence.

[11.288]

Article 7**Requirements for participation and voting in the general meeting**

Member States shall ensure:

- (a) that the rights of a shareholder to participate in a general meeting and to vote in respect of any of his shares are not subject to any requirement that his shares be deposited with, or transferred to, or registered in the name of, another natural or legal person before the general meeting; and
- (b) that the rights of a shareholder to sell or otherwise transfer his shares during the period between the record date, as defined in paragraph 2, and the general meeting to which it applies are not subject to any restriction to which they are not subject at other times.

This Regulation	Directive 2003/6/EC
Article 20(3)	Article 6(10), sixth indent and Article 6(11)
Article 21	Article 1(2)(c), second sentence
Article 22	Article 11, first paragraph and Article 10
Article 23(1)	Article 12(1)
Article 23(1)(a)	Article 12(1)(a)
Article 23(1)(b)	Article 12(1)(b)
Article 23(1)(c)	Article 12(1)(c)
Article 23(1)(d)	Article 12(1)(d)
Article 23(2)(a)	Article 12(2)(a)
Article 23(2)(b)	Article 12(2)(b)
Article 23(2)(c)	
Article 23(2)(d)	Article 12(2)(c)
Article 23(2)(e)	
Article 23(2)(f)	
Article 23(2)(g)	Article 12(2)(d)
Article 23(2)(h)	Article 12(2)(d)
Article 23(2)(i)	Article 12(2)(g)
Article 23(2)(j)	Article 12(2)(f)
Article 23(2)(k)	Article 12(2)(e)
Article 23(2)(l)	Article 12(2)(h)
Article 23(2)(m)	Article 6(7)
Article 23(3)	
Article 23(4)	Article 15a(1)
Article 24(1)	Article 15a(2)
Article 24(2)	
Article 24(3)	Article 16(1)
Article 25(1) first subparagraph	Article 16(2) and Article 16(4), fourth subparagraph
Article 25(2)	Article 16(2), first indent of second subparagraph and Article 16(4) fourth subparagraph
Article 25(2)(a)	
Article 25(2)(b)	Article 16(2), second indent of second subparagraph and Article 16(4), fourth subparagraph
Article 25(2)(c)	Article 16(2) third indent of second subparagraph and Article 16(4) fourth subparagraph
Article 25(2)(d)	
Article 25(3)	Article 16(2), first sentence
Article 25(4)	Article 16(3)
Article 25(5)	Article 16(4)
Article 25(6)	Article 16(2), fourth subparagraph and Article 16(4), fourth subparagraph
Article 25(7)	
Article 25(8)	Article 16(5)
Article 25(9)	
Article 26	
Article 27(1)	
Article 27(2)	
Article 27(3)	
Article 13	
Article 28	
Article 29	
Article 30(1) first subparagraph	Article 14(1)
Article 30(1)(a)	
Article 30(1)(b)	Article 14(3)
Article 30(2)	
Article 30(3)	
Article 31	

This Regulation	Directive 2003/6/EC
Article 32	
Article 33(1)	Article 14(5), first subparagraph
Article 33(2)	Article 14(5), second subparagraph
Article 33(3)	Article 14(5), third subparagraph
Article 33(4)	
Article 33(5)	
Article 34(1)	Article 14(4)
Article 34(2)	
Article 34(3)	
Article 35	Article 17(1)
Article 36(1)	
Article 36(2)	Article 20
Article 37	
Article 38	Article 21
Article 39	

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

(2014/57/EU)
of 16 April 2014

on criminal sanctions for market abuse (market abuse directive)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
having regard to the Treaty on the Functioning of the European Union, and in particular Article 83(2) thereof,
having regard to the proposal from the European Commission,
after transmission of the draft legislative act to the national parliaments,
having regard to the opinion of the European Central Bank,¹
having regard to the opinion of the European Economic and Social Committee,²
acting in accordance with the ordinary legislative procedure,³
whereas:

1) An integrated and efficient financial market and stronger investor confidence requires market integrity. The smooth functioning of securities markets and public confidence in markets are requisites for economic growth and wealth. Market abuse harms the integrity of financial markets and public confidence in securities, derivatives and benchmarks.

2) Directive 2003/6/EC of the European Parliament and the Council⁴ completed and updated the Union's legal framework to protect market integrity. It also required Member States to ensure that competent authorities have the power to detect and investigate market abuse. Without prejudice to the right of Member States to impose criminal sanctions, Directive 2003/6/EC also required Member States to ensure that the appropriate administrative measures can be taken or administrative sanctions can be imposed against the persons responsible for violations of the national rules implementing that Directive.

3) The report of 25 February 2009 by the High-Level Group on Financial Supervision, in the chairmanship of Jacques de Larosière (the 'de Larosière Group'), recommended that a sound regulatory and conduct of business framework for the financial sector must rest on strong supervisory and sanctioning regimes. To that end, the de Larosière Group considered that supervisory authorities must be equipped with sufficient powers to act and that there should also be strong and deterrent sanctions regimes against all financial crimes, sanctions which should be applied effectively, in order to preserve market integrity. The de Larosière Group concluded that Member States' sanctioning regimes are in general weak and heterogeneous.

4) A well-functioning legislative framework in relation to market abuse requires effective implementation. An evaluation of the national regimes for administrative sanctions under Directive

Part II Selected EU Legislation

Part II Selected EU Legislation