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STATUTORY INSTRUMENTS

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**1991 No. 2704**

**BANKING**

**The Bank Accounts Directive  
(Miscellaneous Banks) Regulations 1991**

*Made - - - - 1st December 1991*

*Coming into force - - 2nd December 1991*

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to measures relating to credit and financial institutions, in exercise of the powers conferred by that section and of all other powers enabling him in that behalf, hereby makes the following Regulations of which a draft has been laid before Parliament in accordance with paragraph 2(2) of Schedule 2 to that Act and approved by a resolution of each House of Parliament:

**Citation, commencement and extent**

1. These Regulations, which extend to Great Britain, may be cited as the Bank Accounts Directive (Miscellaneous Banks) Regulations 1991 and shall come into force on the day after the day on which they are made.

**Interpretation**

2. In these Regulations—

“the 1985 Act” means the Companies Act 1985<sup>(3)</sup>;

“accounts” means the annual accounts, the directors' report and the auditors' report required by Regulation 4(1);

“director” includes, in the case of a body which is not a company, any corresponding officer of that body;

“enactment” includes any subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978<sup>(4)</sup>, other than these Regulations;

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(1) S.I. 1990/1304.

(2) 1972 c. 68.

(3) 1985 c. 6; the 1985 Act, and in particular Part VII of that Act dealing with accounts and audit, has been substantially amended by the Companies Act 1989 and the Companies Act 1985 (Bank Accounts) Regulations 1991 (S.I. 1991/2705).

(4) 1978 c. 30.

“financial year”, in relation to a body to which these Regulations apply, means any period in respect of which a profit and loss account of the undertaking is required to be made up by its constitution or by any enactment (whether that period is a year or not) or, failing any such requirement, a period of 12 months beginning on 1st April; and other expressions shall have the meanings ascribed to them by the 1985 Act.

### **Scope of application**

**3.** These Regulations apply to any body of persons, whether incorporated or unincorporated, which:—

- (a) is incorporated or formed by or established under any public general Act of Parliament passed before the year 1837;
- (b) has a principal place of business within Great Britain;
- (c) is an authorised institution within the meaning of the Banking Act 1987(5); and
- (d) is not required by any enactment to prepare accounts under Part VII of the 1985 Act.

### **Preparation of accounts**

**4.—(1)** The directors of a body of persons to which these Regulations apply shall in respect of each financial year of the body prepare such annual accounts and directors' report, and cause to be prepared such auditors' report, as would be required under Part VII of the 1985 Act if the body were a banking company formed and registered under that Act, subject to the provisions of the Schedule to these Regulations.

(2) The accounts required by paragraph (1) shall be prepared within a period of 7 months beginning immediately after the end of the body's financial year.

### **Publication of accounts**

**5.—(1)** A body of persons to which these Regulations apply shall make available the latest accounts prepared under Regulation 4 for inspection by any person, without charge and during business hours, at the body's principal place of business within Great Britain.

(2) The body shall supply to any person upon request a copy of those accounts (or such part of those accounts as may be requested) at a price not exceeding the administrative cost of making the copy.

(3) Paragraph (2) applies whether the request for a copy is made orally during inspection under paragraph (1) above, by post or otherwise.

(4) The annual accounts prepared under Regulation 4 shall be the body's accounts for the purposes of section 45 of the Banking Act 1987 (Audited accounts to be open to inspection) and the auditors' report prepared under that Regulation shall be the auditors' report on the accounts or report of the auditors for the purposes of that section.

### **Penalties for non-compliance**

**6.—(1)** If the directors of a body of persons to which these Regulations apply fail to prepare, or (in the case of the auditors' report) fail to cause to be prepared, the accounts required by Regulation 4(1) within the period referred to in Regulation 4(2), every person who, immediately before the end of the period referred to in Regulation 4(2), was a director of the body is guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum.

(2) If any annual accounts or a directors' report are made available for inspection under Regulation 5 which do not comply with the requirements of Regulation 4(1) as to the matters to be included therein, every person who, at the time the annual accounts or report were first made available for inspection, was a director of the body is guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum.

(3) In proceedings against a person for an offence under this Regulation, it is a defence for him to prove that he took all reasonable steps for securing compliance with the requirements in question.

7.—(1) If a body of persons to which these Regulations apply fails to comply with Regulation 5 it is guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum.

(2) Sections 733(2) and (3) and 734(1) to (4) and (6) of the 1985 Act<sup>(6)</sup> shall apply to an offence under paragraph (1) as they do to an offence under section 394A(1) of that Act.

### **Transitional provisions**

8.—(1) The directors of a body of persons to which these Regulations apply need not prepare accounts in accordance with Regulation 4 with respect to a financial year of the body commencing on a date prior to 23rd December 1992.

(2) Where advantage is taken of paragraph (1), Regulation 5 shall not apply.

Department of Trade and Industry.  
1st December 1991

*John Redwood*  
Minister of State for Corporate Affairs,

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<sup>(6)</sup> Section 733 has been amended by section 212 of, and Schedule 24 to, the Companies Act 1989, whilst section 734 has been amended by sections 120(2), 123(4) and 145 of, and Schedule 19 to, that Act.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SCHEDULE

Regulation 4

## MODIFICATIONS AND ADAPTATIONS OF PART VII OF THE 1985 ACT

1. Where a body of persons subject to these Regulations is unincorporated, the accounts shall comply with the requirements of Part VII of the 1985 Act (Accounts and Audit) subject to any necessary modifications to take account of that fact; in particular the accounts shall comply with Part VII of the 1985 Act subject to the provisions of section 259(2) and (3)(7) of that Act.

2. Accounts prepared under these Regulations shall state they are so prepared.

3. Accounts prepared under these Regulations shall comply with the provisions of Schedule 4A to the 1985 Act(8) (as modified by Part II of Schedule 9(9) to that Act) as if paragraphs 13(3) to (5), 14 and 15 were omitted and paragraph 13(6) only required a statement of any adjustments to consolidated reserves.

4. Accounts prepared under these Regulations shall comply with the provisions of Schedule 5 to the 1985 Act(10) (as modified by Part III of Schedule 9(11) to that Act) as if paragraphs 4, 5, 10, 18, 19 and 29 were omitted.

5. Accounts prepared under these Regulations shall comply with the provisions of Schedule 6 to the 1985 Act(12) (as modified by Part IV of Schedule 9(13) to that Act) as if paragraphs 2 to 6, 8 and 9 were omitted.

6.—(1) Accounts prepared under these Regulations shall comply with paragraph 6 of Schedule 7 to the 1985 Act(14), but otherwise that Schedule shall not apply to such a body.

(2) Where a body subject to these Regulations has a share capital and may lawfully acquire its own shares, the directors' report of that body shall, in addition to the matters referred to in subparagraph (1), state:

- (a) the reasons for any acquisition of such shares during the financial year;
- (b) the number and nominal value of any such shares acquired during the financial year and the number and nominal value of any such shares disposed of during the financial year, together, in each case, with the percentage of the total issued share capital of the body that they represent;
- (c) the value and nature of any consideration given for the acquisition of such shares and the value and nature of any consideration received for the disposal of such shares during the financial year; and
- (d) the number and nominal value of all such shares held by the body at the end of the financial year, together with the percentage they represent of the total issued share capital of the body.

(7) Section 259 was inserted into the 1985 Act by sections 1 and 22 of the Companies Act 1989.

(8) Schedule 4A was inserted into the 1985 Act by sections 1 and 5 of the Companies Act 1989.

(9) Part II of Schedule 9 was inserted into the 1985 Act by sections 1 and 18 of, and Part II of Schedule 7 to, the Companies Act 1989.

(10) Schedule 5 was inserted into the 1985 Act in substitution for the existing Schedule of that number by sections 1 and 6 of, and Schedule 3 to, the Companies Act 1989.

(11) Part III of Schedule 9 was inserted into the 1985 Act by Regulation 5 of, and Schedule 1 to, the Companies Act 1985 (Bank Accounts) Regulations 1991.

(12) Schedule 6 has been amended by sections 1 and 6 of, and Schedule 4 to, the Companies Act 1989.

(13) Part IV of Schedule 9 was inserted into the 1985 Act by sections 1 and 18 of, and Part IV of Schedule 7 to, the Companies Act 1989.

(14) Schedule 7 has been amended by sections 1 and 8 of, and Schedule 5 to, the Companies Act 1989.

7. Accounts prepared under these Regulations shall comply with the provisions of Part I of Schedule 9(15) to the 1985 Act subject to the following modifications:—

- (a) in Section B of Chapter I of that Part, the profit and loss account formats there prescribed shall apply as if item 15 of format 1 and Charges item 9 and Income item 8 of format 2 were omitted; and
- (b) in Chapter III of that Part, paragraphs 49, 54, 56, 57, 66(1)(b), 68(1)(b) and (2), 73(2), 74 and 75 shall not apply.

8. For the purposes of the provisions of Part VII of the 1985 Act as applied by these Regulations, these Regulations shall be regarded as part of the requirements of that Act.

9. Paragraphs 3 to 7 of this Schedule shall not be construed as affecting the requirement to give a true and fair view under sections 226 and 227 of the 1985 Act, as applied by these Regulations.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

1. These Regulations implement Council Directive [86/635/EEC](#) Official Journal No L372 of 31.12.1986 pages 1-17 on the Annual Accounts and Consolidated Accounts of Banks and Other Financial Institutions, in so far as that Directive is applicable to bodies corporate or unincorporate other than (a) bodies corporate to which Part VII of the Companies Act 1985 (“the 1985 Act”) applies and (b) building societies. (The Companies Act 1985 (Bank Accounts) Regulations 1991 (S.I.1991/2705) implement Directive [86/635/EEC](#) in respect of bodies corporate to which Part VII of the 1985 Act applies. Separate Regulations will deal with building societies.)

2. The scope of application of the Regulations is set out in Regulation 3. They apply, in effect, to certain institutions authorised under the Banking Act 1987 to carry on a deposit taking business which were incorporated or formed by or under Public General Acts which predate modern legislation governing the legal forms in which business may be carried on.

3. The directors of bodies of persons to which the Regulations apply are required by Regulation 4 to prepare accounts and a directors' report, and to obtain an auditors' report on such accounts, in accordance with the provisions of Part VII of the 1985 Act which are applicable to banking companies and groups, subject to certain modifications set out in the Schedule to the Regulations. The Schedule disappplies requirements of Part VII which do not derive from the European Community Directives on Accounts.

4. Regulation 5 requires the documents prepared under Regulation 4 to be made available for inspection without charge at the body's principal place of business within Great Britain; the documents are also to be those to which section 45 of the Banking Act 1987 applies. That section requires the accounts of an institution authorised under that Act to be open to inspection at any of its branches.

5. Regulations 6 and 7 impose criminal penalties for failure to comply with the Regulations.

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(15) Part I of Schedule 9 was inserted into the 1985 Act by Regulation 5 of, and Schedule 1 to, the Companies Act 1985 (Bank Accounts) Regulations 1991.

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6. Regulation 8 permits the directors of a body of persons to which the Regulations apply not to prepare accounts and a directors' report (and obtain an auditors' report on the accounts) under the Regulations for financial years commencing on a date prior to 23rd December 1992. This transitional provision mirrors the transitional provision contained in the Companies Act 1985 (Bank Accounts) Regulations 1991.