STATUTORY INSTRUMENTS

2008 No. 1911

The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008

PART 5

ANNUAL ACCOUNTS

Annual accounts to give true and fair view

8. Section 393 applies to LLPs, modified so that it reads as follows—

"**Accounts to give true and fair view**

393.—(1) The members of an LLP must not approve accounts for the purposes of this Chapter unless they are satisfied that they give a true and fair view of the assets, liabilities, financial position and profit or loss—

(a) in the case of the LLP's individual accounts, of the LLP;

(b) in the case of the LLP's group accounts, of the undertakings included in the consolidation as a whole, so far as concerns members of the LLP.

(2) The auditor of an LLP in carrying out his functions under this Act in relation to the LLP's annual accounts must have regard to the members' duty under subsection (1)."

Individual accounts

9. Sections 394 to 397(**1**) apply to LLPs, modified so that they read as follows—

"**Duty to prepare individual accounts**

394. The members of every LLP must prepare accounts for the LLP for each of its financial years.

Those accounts are referred to as the LLP's "individual accounts".

Individual accounts: applicable accounting framework

395.—(1) An LLP's individual accounts may be prepared—

(a) in accordance with section 396 ("non-IAS individual accounts"), or

(b) in accordance with international accounting standards ("IAS individual accounts").

This is subject to the following provisions of this section and to section 407 (consistency of financial reporting within group).

(**1**) Section 395 was amended by regulation 9 of S.I. 2008/393.

(2) After the first financial year in which the members of an LLP prepare IAS individual accounts ("the first IAS year"), all subsequent individual accounts of the LLP must be prepared in accordance with international accounting standards unless there is a relevant change of circumstance.

(3) There is a relevant change of circumstance if, at any time during or after the first IAS year—

(a) the LLP becomes a subsidiary undertaking of another undertaking that does not prepare IAS individual accounts,

(b) the LLP ceases to be a subsidiary undertaking,

(c) the LLP ceases to be an LLP with securities admitted to trading on a regulated market in an EEA State, or

(d) a parent undertaking of the LLP ceases to be an undertaking with securities admitted to trading on a regulated market in an EEA State.

(4) If, having changed to preparing non-IAS individual accounts following a relevant change of circumstance, the members again prepare IAS individual accounts for the LLP, subsections (2) and (3) apply again as if the first financial year for which such accounts are again prepared were the first IAS year.

Non-IAS individual accounts

396.—(1) Non-IAS individual accounts must comprise—

(a) a balance sheet as at the last day of the financial year, and

(b) a profit and loss account.

(2) The accounts must—

(a) in the case of the balance sheet, give a true and fair view of the state of affairs of the LLP as at the end of the financial year, and

(b) in the case of the profit and loss account, give a true and fair view of the profit or loss of the LLP for the financial year.

(3) The accounts must comply with the provisions of—

(a) regulation 3 of the Small Limited Liability Partnerships (Accounts) Regulations 2008 (non-IAS individual accounts of LLP subject to the small LLPs regime) (S.I. 2008/1912), or

(b) regulations 3 and 4 of the Large and Medium-sized Limited Liability Partnerships (Accounts) Regulations 2008 (non-IAS individual accounts of large and medium-sized LLPs) (S.I. 2008/1913),

as to the form and content of the balance sheet and profit and loss account, and additional information to be provided by way of notes to the accounts..

(4) If compliance with the regulations specified in subsection (3), and any other provision made by or under this Act as to the matters to be included in an LLP's individual accounts or in notes to those accounts, would not be sufficient to give a true and fair view, the necessary additional information must be given in the accounts or in a note to them.

(5) If in special circumstances compliance with any of those provisions is inconsistent with the requirement to give a true and fair view, the members must depart from that provision to the extent necessary to give a true and fair view.

Particulars of any such departure, the reasons for it and its effect must be given in a note to the accounts.

IAS individual accounts

397. Where the members of an LLP prepare IAS individual accounts, they must state in the notes to the accounts that the accounts have been prepared in accordance with international accounting standards."

Group accounts

10. Sections 398 to 408(**2**) apply to LLPs, modified so that they read as follows—

"**Option to prepare group accounts**

398. If at the end of a financial year an LLP subject to the small LLPs regime is a parent LLP the members, as well as preparing individual accounts for the year, may prepare group accounts for the year.

Duty to prepare group accounts

399.—(1) This section applies to LLPs that are not subject to the small LLPs regime.

(2) If at the end of a financial year the LLP is a parent LLP the members, as well as preparing individual accounts for the year, must prepare group accounts for the year unless the LLP is exempt from that requirement.

(3) There are exemptions under—

(a) section 400 (LLP included in EEA accounts of larger group),

(b) section 401 (LLP included in non-EEA accounts of larger group), and

(c) section 402 (LLP none of whose subsidiary undertakings need be included in the consolidation).

(4) An LLP to which this section applies but which is exempt from the requirement to prepare group accounts, may do so.

Exemption for LLP included in EEA group accounts of larger group

400.—(1) An LLP is exempt from the requirement to prepare group accounts if it is itself a subsidiary undertaking and its immediate parent undertaking is established under the law of an EEA State, in the following cases—

(a) where the LLP is a wholly-owned subsidiary of that parent undertaking;

(b) where that parent undertaking holds more than 50% of the shares in the LLP and notice requesting the preparation of group accounts has not been served on the LLP by members holding in aggregate—

(i) more than half of the remaining shares in the LLP, or

(ii) 5% of the total shares in the LLP.

Such notice must be served not later than six months after the end of the financial year before that to which it relates.

(2) Exemption is conditional upon compliance with all of the following conditions—

(a) the LLP must be included in consolidated accounts for a larger group drawn up to the same date, or to an earlier date in the same financial year, by a parent undertaking established under the law of an EEA State;

(**2**) Section 408 was amended by regulation 10 of S.I. 2008/393.

(b) those accounts must be drawn up and audited, and that parent undertaking's annual report must be drawn up, according to that law—

(i) in accordance with the provisions of the Seventh Directive (83/349/EEC) (as modified, where relevant, by the provisions of the Bank Accounts Directive (86/635/EEC) or the Insurance Accounts Directive (91/674/EEC)), or

(ii) in accordance with international accounting standards;

(c) the LLP must disclose in its individual accounts that it is exempt from the obligation to prepare and deliver group accounts;

(d) the LLP must state in its individual accounts the name of the parent undertaking that draws up the group accounts referred to above and—

(i) if it is incorporated outside the United Kingdom, the country in which it is incorporated, or

(ii) if it is unincorporated, the address of its principal place of business;

(e) the LLP must deliver to the registrar, within the period for filing its accounts and auditor's report for the financial year in question, copies of those group accounts, together with the auditor's report on them;

(f) any requirement of Part 35 of this Act as to the delivery to the registrar of a certified translation into English must be met in relation to any document comprised in the accounts and reports delivered in accordance with paragraph (e).

(3) For the purposes of subsection (1)(b) shares held by a wholly-owned subsidiary of the parent undertaking, or held on behalf of the parent undertaking or a wholly-owned subsidiary, shall be attributed to the parent undertaking.

(4) The exemption does not apply to an LLP any of whose securities are admitted to trading on a regulated market in an EEA State.

(5) In subsection (4) "securities" includes—

(a) debentures, including debenture stock, loan stock, bonds, certificates of deposit and other instruments creating or acknowledging indebtedness,

(b) warrants or other instruments entitling the holder to subscribe for securities falling within paragraph (a), and

(c) certificates or other instruments that confer—

(i) property rights in respect of a security falling within paragraph (a) or (b),

(ii) any right to acquire, dispose of, underwrite or convert a security, being a right to which the holder would be entitled if he held any such security to which the certificate or other instrument relates, or

(iii) a contractual right (other than an option) to acquire any such security otherwise than by subscription.

Exemption for LLP included in non-EEA group accounts of larger group

401.—(1) An LLP is exempt from the requirement to prepare group accounts if it is itself a subsidiary undertaking and its parent undertaking is not established under the law of an EEA State, in the following cases—

(a) where the LLP is a wholly-owned subsidiary of that parent undertaking;

(b) where that parent undertaking holds more than 50% of the shares in the LLP and notice requesting the preparation of group accounts has not been served on the LLP by members holding in aggregate—

(i) more than half of the remaining shares in the LLP, or

(ii) 5% of the total shares in the LLP.

Such notice must be served not later than six months after the end of the financial year before that to which it relates.

(2) Exemption is conditional upon compliance with all of the following conditions—

(a) the LLP and all of its subsidiary undertakings must be included in consolidated accounts for a larger group drawn up to the same date, or to an earlier date in the same financial year, by a parent undertaking;

(b) those accounts must be drawn up—

(i) in accordance with the provisions of the Seventh Directive (83/349/EEC) (as modified, where relevant, by the provisions of the Bank Accounts Directive (86/635/EEC) or the Insurance Accounts Directive (91/674/EEC)), or

(ii) in a manner equivalent to consolidated accounts so drawn up;

(c) the group accounts must be audited by one or more persons authorised to audit accounts under the law under which the parent undertaking which draws them up is established;

(d) the LLP must disclose in its individual accounts that it is exempt from the obligation to prepare and deliver group accounts;

(e) the LLP must state in its individual accounts the name of the parent undertaking which draws up the group accounts referred to above and—

(i) if it is incorporated outside the United Kingdom, the country in which it is incorporated, or

(ii) if it is unincorporated, the address of its principal place of business;

(f) the LLP must deliver to the registrar, within the period for filing its accounts and auditor's report for the financial year in question, copies of the group accounts, together with the auditor's report on them;

(g) any requirement of Part 35 of this Act as to the delivery to the registrar of a certified translation into English must be met in relation to any document comprised in the accounts and reports delivered in accordance with paragraph (f).

(3) For the purposes of subsection (1)(b) shares held by a wholly-owned subsidiary of the parent undertaking, or held on behalf of the parent undertaking or a wholly-owned subsidiary, shall be attributed to the parent undertaking.

(4) The exemption does not apply to an LLP any of whose securities are admitted to trading on a regulated market in an EEA State.

(5) In subsection (4) "securities" includes—

(a) debentures, including debenture stock, loan stock, bonds, certificates of deposit and other instruments creating or acknowledging indebtedness,

(b) warrants or other instruments entitling the holder to subscribe for securities falling within paragraph (a), and

(c) certificates or other instruments that confer—

(i) property rights in respect of a security falling within paragraph (a) or (b),

(ii) any right to acquire, dispose of, underwrite or convert a security, being a right to which the holder would be entitled if he held any such security to which the certificate or other instrument relates, or

(iii) a contractual right (other than an option) to acquire any such security otherwise than by subscription.

Exemption if no subsidiary undertakings need be included in the consolidation

402. A parent LLP is exempt from the requirement to prepare group accounts if under section 405 all of its subsidiary undertakings could be excluded from consolidation in non-IAS group accounts.

Group accounts: applicable accounting framework

403.—(1) The group accounts of a parent LLP may be prepared—

(a) in accordance with section 404 (" non-IAS group accounts"), or

(b) in accordance with international accounting standards ("IAS group accounts").

This is subject to the following provisions of this section.

(2) After the first financial year in which the members of a parent LLP prepare IAS group accounts ("the first IAS year"), all subsequent group accounts of the LLP must be prepared in accordance with international accounting standards unless there is a relevant change of circumstance.

(3) There is a relevant change of circumstance if, at any time during or after the first IAS year—

(a) the LLP becomes a subsidiary undertaking of another undertaking that does not prepare IAS group accounts,

(b) the LLP ceases to be an LLP with securities admitted to trading on a regulated market in an EEA State, or

(c) a parent undertaking of the LLP ceases to be an undertaking with securities admitted to trading on a regulated market in an EEA State.

(4) If, having changed to preparing non-IAS group accounts following a relevant change of circumstance, the members again prepare IAS group accounts for the LLP, subsections (2) and (3) apply again as if the first financial year for which such accounts are again prepared were the first IAS year.

Non-IAS group accounts

404.—(1) Non-IAS group accounts must comprise—

(a) a consolidated balance sheet dealing with the state of affairs of the parent LLP and its subsidiary undertakings, and

(b) a consolidated profit and loss account dealing with the profit or loss of the parent LLP and its subsidiary undertakings.

(2) The accounts must give a true and fair view of the state of affairs as at the end of the financial year, and the profit or loss for the financial year, of the undertakings included in the consolidation as a whole, so far as concerns members of the LLP.

(3) The accounts must comply with the provisions of—

(a) regulation 6 of the Small Limited Liability Partnerships (Accounts) Regulations 2008 (non-IAS group accounts of small parent LLP opting to prepare group accounts) (S.I. 2008/1912), or

(b) regulation 6 of the Large and Medium-sized Limited Liability Partnerships (Accounts) Regulations 2008 (non-IAS group accounts of large and medium-sized parent LLPs) (S.I. 2008/1913),

as to the form and content of the consolidated balance sheet and consolidated profit and loss account, and additional information to be provided by way of notes to the accounts..

(4) If compliance with the regulations specified in subsection (3), and any other provision made by or under this Act as to the matters to be included in an LLP's group accounts or in notes to those accounts, would not be sufficient to give a true and fair view, the necessary additional information must be given in the accounts or in a note to them.

(5) If in special circumstances compliance with any of those provisions is inconsistent with the requirement to give a true and fair view, the members must depart from that provision to the extent necessary to give a true and fair view.

Particulars of any such departure, the reasons for it and its effect must be given in a note to the accounts.

Non-IAS group accounts: subsidiary undertakings included in the consolidation

405.—(1) Where a parent LLP prepares non-IAS group accounts, all the subsidiary undertakings of the LLP must be included in the consolidation, subject to the following exceptions.

(2) A subsidiary undertaking may be excluded from consolidation if its inclusion is not material for the purpose of giving a true and fair view (but two or more undertakings may be excluded only if they are not material taken together).

(3) A subsidiary undertaking may be excluded from consolidation where—

(a) severe long-term restrictions substantially hinder the exercise of the rights of the parent LLP over the assets or management of that undertaking, or

(b) the information necessary for the preparation of group accounts cannot be obtained without disproportionate expense or undue delay, or

(c) the interest of the parent LLP is held exclusively with a view to subsequent resale.

(4) The reference in subsection (3)(a) to the rights of the parent LLP and the reference in subsection (3)(c) to the interest of the parent LLP are, respectively, to rights and interests held by or attributed to the LLP for the purposes of the definition of "parent undertaking" (see section 1162) in the absence of which it would not be the parent LLP.

IAS group accounts

406. Where the members of an LLP prepare IAS group accounts, they must state in the notes to those accounts that the accounts have been prepared in accordance with international accounting standards.

Consistency of financial reporting within group

407.—(1) The members of a parent LLP must secure that the individual accounts of—

(a) the parent LLP, and

(b) each of its subsidiary undertakings,

are all prepared using the same financial reporting framework, except to the extent that in their opinion there are good reasons for not doing so.

(2) Subsection (1) does not apply if the members do not prepare group accounts for the parent LLP.

(3) Subsection (1) only applies to accounts of subsidiary undertakings that are required to be prepared under this Part.

(4) Subsection (1)(a) does not apply where the members of a parent LLP prepare IAS group accounts and IAS individual accounts.

Individual profit and loss account where group accounts prepared

408.—(1) This section applies where—

(a) an LLP prepares group accounts in accordance with this Act, and

(b) the notes to the LLP's individual balance sheet show the LLP's profit or loss for the financial year determined in accordance with this Act

(2) The LLP's individual profit and loss account need not contain the information specified in section 411 (information about employee numbers and costs).

(3) The LLP's individual profit and loss account must be approved in accordance with section 414(1) (approval by members) but may be omitted from the LLP's annual accounts for the purposes of the other provisions of this Act.

(4) The exemption conferred by this section is conditional upon its being disclosed in the LLP's annual accounts that the exemption applies."

Information to be given in notes to accounts

11. Section 409 to 411(**3**) apply to LLPs, modified so that they read as follows—

"**Information about related undertakings**

409.—(1) The notes to the LLP's annual accounts must contain the information about related undertakings required by—

(a) regulations 4 and 7 of the Small Limited Liability Partnerships (Accounts) Regulations 2008 (information about related undertakings: non-IAS or IAS individual or group accounts) (S.I. 2008/1912), or

(b) regulation 5 of the Large and Medium-sized Limited Liability Partnerships (Accounts) Regulations 2008 (information about related undertakings: non-IAS or IAS individual or group accounts) (S.I. 2008/1913).

(2) That information need not be disclosed with respect to an undertaking that—

(a) is established under the law of a country outside the United Kingdom, or

(b) carries on business outside the United Kingdom,

if the following conditions are met.

(4) The conditions are—

(a) that in the opinion of the members of the LLP the disclosure would be seriously prejudicial to the business of—

(i) that undertaking,

(ii) the LLP,

(iii) any of the LLP's subsidiary undertakings, or

(iv) any other undertaking which is included in the consolidation;

(b) that the Secretary of State agrees that the information need not be disclosed.

(**3**) Section 410A was inserted by regulation 8 of S.I. 2008/ 393 and section 411 was amended by regulation 11 of S.I. 2008/393.

(5) Where advantage is taken of any such exemption, that fact must be stated in a note to the LLP's annual accounts.

Information about related undertakings: alternative compliance

410.—(1) This section applies where the members of an LLP are of the opinion that the number of undertakings in respect of which the LLP is required to disclose information under any provision of the regulations specified in section 409(1) (related undertakings) is such that compliance with that provision would result in information of excessive length being given in notes to the LLP's annual accounts.

(2) The information need only be given in respect of—

(a) the undertakings whose results or financial position, in the opinion of the members, principally affected the figures shown in the LLP's annual accounts, and

(b) where the LLP prepares group accounts, undertakings excluded from consolidation under section 405(3) (undertakings excluded on grounds other than materiality).

(3) If advantage is taken of subsection (2)—

(a) there must be included in the notes to the LLP's annual accounts a statement that the information is given only with respect to such undertakings as are mentioned in that subsection, and

(b) the full information (both that which is disclosed in the notes to the accounts and that which is not) must be annexed to the LLP's next annual return.

For this purpose the "next annual return" means that next delivered to the registrar after the accounts in question have been approved under section 414.

(4) If an LLP fails to comply with subsection (3)(b), an offence is committed by—

(a) the LLP, and

(b) every member of the LLP who is in default.

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

Information about off-balance sheet arrangements

410A.—(1) In the case of an LLP that is not subject to the small LLPs regime, if in any financial year—

(a) the LLP is or has been party to arrangements that are not reflected in its balance sheet, and

(b) at the balance sheet date the risks or benefits arising form those arrangements are material,

the information required by this section must be given in notes to the LLP's annual accounts.

(2) The information required is—

(a) the nature and business purpose of the arrangements, and

(b) the financial impact of the arrangements on the LLP.

(3) The information need only be given to the extent necessary for enabling the financial position of the LLP to be assessed.

(4) If the LLP qualifies as medium-sized in relation to the financial year (see sections 465 to 467) it need not comply with subsection (2)(b).

(5) This section applies in relation to group accounts as if the undertakings included in the consolidation were a single LLP.

Information about employee numbers and costs

411.—(1) In the case of an LLP not subject to the small LLPs regime, the following information with respect to the employees of the LLP must be given in notes to the LLP's annual accounts—

(a) the average number of persons employed by the LLP in the financial year, and

(b) the average number of persons so employed within each category of persons employed by the LLP.

(2) The categories by reference to which the number required to be disclosed by subsection (1)(b) is to be determined must be such as the members may select having regard to the manner in which the LLP's activities are organised.

(3) The average number required by subsection (1)(a) or (b) is determined by dividing the relevant annual number by the number of months in the financial year.

(4) The relevant annual number is determined by ascertaining for each month in the financial year—

(a) for the purposes of subsection (1)(a), the number of persons employed under contracts of service by the LLP in that month (whether throughout the month or not);

(b) for the purposes of subsection (1)(b), the number of persons in the category in question of persons so employed;

and adding together all the monthly numbers.

(5) In respect of all persons employed by the LLP during the financial year who are taken into account in determining the relevant annual number for the purposes of subsection (1)(a) there must also be stated the aggregate amounts respectively of—

(a) wages and salaries paid or payable in respect of that year to those persons;

(b) social security costs incurred by the LLP on their behalf; and

(c) other pension costs so incurred.

This does not apply in so far as those amounts, or any of them, are stated elsewhere in the LLP's accounts.

(6) In subsection (5)—

"pension costs" includes any costs incurred by the LLP in respect of—

(a) any pension scheme established for the purpose of providing pensions for persons currently or formerly employed by the LLP,

(b) any sums set aside for the future payment of pensions directly by the LLP to current or former employees, and

(c) any pensions paid directly to such persons without having first been set aside;

"social security costs" means any contributions by the LLP to any state social security or pension scheme, fund or arrangement.

(7) This section applies in relation to group accounts as if the undertakings included in the consolidation were a single LLP."

Approval and signing of accounts

12. Section 414 applies to LLPs, modified so that it reads as follows—

"**Approval and signing of accounts**

414.—(1) An LLP's annual accounts must be approved by the members, and signed on behalf of all the members by a designated member.

(2) The signature must be on the LLP's balance sheet.

(3) If the accounts are prepared in accordance with the provisions applicable to LLPs subject to the small LLPs regime, the balance sheet must contain a statement to that effect in a prominent position above the signature.

(4) If annual accounts are approved that do not comply with the requirements of this Act, every member of the LLP who—

(a) knew that they did not comply, or was reckless as to whether they complied, and

(b) failed to take reasonable steps to secure compliance with those requirements or, as the case may be, to prevent the accounts from being approved,

commits an offence.

(5) A person guilty of an offence under this section is liable—

(a) on conviction on indictment, to a fine;

(b) on summary conviction, to a fine not exceeding the statutory maximum."