
EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend Part VIII of the Companies (Northern Ireland) Order 1986 (“the 1986 Order”) on accounts and audit in order to –

- introduce a new requirement for directors of quoted companies to prepare operating and financial reviews (“OFRs”) for financial years;
- implement requirements relating to the directors' report in articles 1.14, 1.17 (in part) and 2.10 of Directive [2003/51/EC](#) of the European Parliament and of the Council of 18th June 2003 amending Directives [78/660/EEC](#), [83/349/EEC](#), [86/635/EEC](#) and [91/674/EEC](#) on the annual and consolidated accounts of certain types of companies, banks and other financial institutions and insurance undertakings (Official Journal No. L178/16 of 17th July 2003) (“the Accounts Modernisation Directive”);
- make minor and consequential amendments to Part VIII.

Part I (regulation 1) is introductory. It includes provision applying the amendments to the 1986 Order made by Parts II, III, IV and VI to companies' financial years beginning on or after 1st April 2005. The amendments in Part V (revision of defective reports and reviews) are to apply in respect of annual accounts, directors' reports and OFRs for companies' financial years beginning on or after 1st April 2006, save that the amendments to Article 253 of the 1986 Order in regulation 13, which permit quoted companies voluntarily to revise their OFRs, will apply from 1st April 2005.

Part II (regulations 2 to 7) replaces Article 242 of, and amends Schedule 7 to, the 1986 Order, inserts new Articles 242ZZA and 242ZZB, in order to provide for further disclosures in the directors' report in implementation of Articles 1.14, 1.17 (in part) and 2.10 of the Accounts Modernisation Directive. New Article 242 contains a re-worded offence of failing to comply with the 1986 Order's requirements in respect of the preparation and content of the directors' report.

Regulation 3 implements the second part of Article 1.17 of the Accounts Modernisation Directive, requiring auditors to report on whether information in the directors' report is consistent with the annual accounts.

The existing exemption for small companies in Article 254(4)(a) of the 1986 Order from the requirement to give a fair review in the directors' report is applied to the enhanced disclosure requirements (regulation 4). Medium-sized companies are exempted from making the disclosures concerning non-financial information (regulation 5 amending Article 254A of the 1986 Order). Small and medium-sized companies will not be prevented from taking advantage of these exemptions even if they are part of an ineligible group (regulation 6 amending Article 255A of the 1986 Order).

Part III (regulations 8 to 10) introduces a new requirement in Article 242AA for quoted companies to prepare an OFR complying with the requirements of new Schedule 7ZA to the 1986 Order inserted by regulation 9. A quoted company is defined in Article 270 of the 1986 Order as a company whose equity share capital has been included in the official list in accordance with the provisions of Part VI of the Financial Services and Markets Act [2000 \(c. 8\)](#), is officially listed in an EEA State, or is admitted to dealing on either the New York Stock Exchange or the exchange known as Nasdaq.

Failure to comply with the requirements of the 1986 Order concerning the preparation and contents of the OFR will constitute a criminal offence (Article 242AA(5)). New Article 242AB imposes a criminal penalty for failure to comply with requirements in that Article for the approval and signature of the OFR.

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

Regulation 10 inserts a new paragraph (3A) into Article 243 of the 1986 Order to provide for a review by a quoted company's auditors of the OFR.

Part IV (regulations 11 and 12) amends the regulation-making power for summary financial statements in Article 259 of the 1986 Order to make provision concerning the operating and financial review and the amended directors' report. Regulation 12 makes transitional provision for regulations made under Article 259 before the date on which these Regulations come into operation.

Part V (regulations 13 to 16) amends Articles 253 to 253C of the 1986 Order to provide for the voluntary revision by the directors of a defective OFR, and for the compulsory revision of defective directors' reports and OFRs by application to the court by the Department or a person authorised by it.

Part VI (regulation 17 and the Schedule) makes minor and consequential amendments to Part VIII of the 1986 Order resulting from the introduction of the OFR.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from the Department of Enterprise, Trade and Investment, Company Law Branch, Londonderry House, 21-27 Chichester Street, Belfast BT1 4JB.