

Draft Regulations laid before Parliament under sections 473(3), 1290 and 1292(4) of the Companies Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

COMPANIES

**The Companies Act 2006 (Amendment)
(Accounts and Reports) Regulations 2008**

Made - - - - **** 2008*
Coming into force - - *6th April 2008*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 468(1) and (2), 473(2), 484 and 1292(1)(a) and (c) of the Companies Act 2006⁽¹⁾.

In accordance with sections 473(3), 1290 and 1292(4) of the Companies Act 2006 a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

INTRODUCTION

Citation and interpretation

1.—(1) These Regulations may be cited as the Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008.

(2) In these Regulations “the 2006 Act” means the Companies Act 2006.

Commencement and application

2.—(1) These Regulations come into force on 6th April 2008.

(2) They apply in relation to financial years beginning on or after 6th April 2008.

(3) In determining whether a company or group qualifies as small or medium-sized under section 382(2), 383(3), 465(2) or 466(3) of the 2006 Act (qualification in relation to subsequent financial year by reference to circumstances in preceding financial years) in relation to a financial year ending on or after 6th April 2008, the company or group shall be treated as having qualified as

(1) 2006 c.46.

small or medium-sized (as the case may be) in any previous financial year in which it would have so qualified if amendments to the same effect as those made by these Regulations had been in force.

PART 2

SMALL AND MEDIUM-SIZED COMPANIES AND GROUPS

Conditions for company or group to qualify as small

3.—(1) In the table in section 382(3) of the 2006 Act (conditions to be met by company to qualify as small)—

- (a) in item 1 (turnover) for “Not more than £5.6 million” substitute “Not more than £6.5 million”, and
- (b) in item 2 (balance sheet total) for “Not more than £2.8 million” substitute “Not more than £3.26 million”.

(2) In the table in section 383(4) of the 2006 Act (conditions to be met by group for parent company to qualify as small)—

- (a) in item 1 (aggregate turnover) for “Not more than £5.6 million net (or £6.72 million gross)” substitute “Not more than £6.5 million net (or £7.8 million gross)”, and
- (b) in item 2 (aggregate balance sheet total) for “Not more than £2.8 million net (or £3.36 million gross)” substitute “Not more than £3.26 million net (or £3.9 million gross)”.

Conditions for company or group to qualify as medium-sized

4.—(1) In the table in section 465(3) of the 2006 Act (conditions to be met by company to qualify as medium-sized)—

- (a) in item 1 (turnover) for “Not more than £22.8 million” substitute “Not more than £25.9 million”, and
- (b) in item 2 (balance sheet total) for “Not more than £11.4 million” substitute “Not more than £12.9 million”.

(2) In the table in section 466(4) of the 2006 Act (conditions to be met by group for parent company to qualify as medium-sized)—

- (a) in item 1 (aggregate turnover) for “Not more than £22.8 million net (or £27.36 million gross)” substitute “Not more than £25.9 million net (or £31.1 million gross)”, and
- (b) in item 2 (aggregate balance sheet total) for “Not more than £11.4 million net (or £13.68 million gross)” substitute “Not more than £12.9 million net (or £15.5 million gross)”.

Conditions for small companies exemption from audit

5.—(1) In section 477(2) of the 2006 Act (conditions to be met by company to be exempt from audit)—

- (a) in paragraph (b) (turnover), for “not more than £5.6 million” substitute “not more than £6.5 million”, and
- (b) in paragraph (c) (balance sheet total), for “not more than £2.8 million” substitute “not more than £3.26 million”.

(2) In section 479(2) of the 2006 Act (conditions to be met by group for group company to be exempt from audit)—

- (a) in paragraph (b) (aggregate turnover), for “not more than £5.6 million net (or £6.72 million gross)” substitute “not more than £6.5 million net (or £7.8 million gross)”, and
- (b) in paragraph (c) (aggregate balance sheet total), for “not more than £2.8 million net (or £3.36 million gross)” substitute “not more than £3.26 million net (or £3.9 million gross)”.

Small companies exemption in relation to directors’ report

6.—(1) In section 381 of the 2006 Act (companies subject to the small companies regime), omit “for accounts and reports”.

(2) After section 415 of that Act insert—

“Directors’ report: small companies exemption

415A.—(1) A company is entitled to small companies exemption in relation to the directors’ report for a financial year if—

- (a) it is entitled to prepare accounts for the year in accordance with the small companies regime, or
- (b) it would be so entitled but for being or having been a member of an ineligible group.

(2) The exemption is relevant to—

section 416(3) (contents of report: statement of amount recommended by way of dividend),

section 417 (contents of report: business review), and

sections 444 to 446 (filing obligations of different descriptions of company).”.

(3) In section 416(3) of that Act (contents of report: statement of amount recommended by way of dividend), for “subject to the small companies regime” substitute “entitled to the small companies exemption”.

(4) In section 417(1) of that Act (contents of report: business review), for “subject to the small companies regime” substitute “entitled to the small companies exemption”.

(5) In section 419(2) of that Act (statement to be contained in report) for the words from “If the report” to “regime,” substitute “If in preparing the report advantage is taken of the small companies exemption.”.

(6) In section 441(1) of that Act (duty to file accounts and reports with the registrar), at the appropriate place insert—

“section 444A (filing obligations of companies entitled to small companies exemption in relation to directors’ report),”.

(7) After section 444 of that Act insert—

“Filing obligations of companies entitled to small companies exemption in relation to directors’ report

444A.—(1) The directors of a company that is entitled to small companies exemption in relation to the directors’ report for a financial year—

- (a) must deliver to the registrar a copy of the company’s annual accounts for that year, and
- (b) may also deliver to the registrar a copy of the directors’ report.

(2) The directors must also deliver to the registrar a copy of the auditor’s report on the accounts (and any directors’ report) that it delivers.

This does not apply if the company is exempt from audit and the directors have taken advantage of that exception.

(3) The copies of the balance sheet and directors' report delivered to the registrar under this section must state the name of the person who signed it on behalf of the board.

(4) The copy of the auditor's report delivered to the registrar under this section must—

- (a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, and
- (b) be signed by the auditor or (where the auditor is a firm) in the name of the firm by a person authorised to sign on its behalf,

or, if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified to the Secretary of State in accordance with that section.

(5) This section does not apply to companies within section 444 (filing obligations of companies subject to the small companies regime)."

(8) In section 445 of that Act (filing obligations of medium-sized companies), for subsection (7) substitute—

“(7) This section does not apply to companies within—

- (a) section 444 (filing obligations of companies subject to the small companies regime), or
- (b) section 444A (filing obligations of companies entitled to small companies exemption in relation to directors' report).”

(9) In section 446(5) of that Act (filing obligations of unquoted companies: disapplication of section in relation to companies subject to other provisions), omit the “or” at the end of paragraph (a) and after that paragraph insert—

“(aa) section 444A (filing obligations of companies entitled to small companies exemption in relation to directors' report), or”.

(10) In section 498 of that Act (duties of auditor) for subsection (5) substitute—

“(5) If the directors of the company—

- (a) have prepared accounts in accordance with the small companies regime, or
- (b) have taken advantage of small companies exemption in preparing the directors' report,

and in the auditor's opinion they were not entitled to do so, the auditor shall state that fact in his report.”.

(11) In Schedule 8 to that Act (index of defined expressions), in the entry relating to “small companies regime” for “, for accounts and reports” substitute “(for accounts)”.

(12) In that Schedule, at the appropriate place insert—

“small companies exemption (in relation to directors' report)	section 415A”.
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Companies entitled to take advantage of provisions applying to medium-sized companies

7. In section 467 of the 2006 Act (companies excluded from being treated as medium-sized)(2) after subsection (3) insert—

(2) Section 467 was amended by regulation 3(3) of [S.I.2007/2932](#).

“(4) This section does not prevent a company from taking advantage of section 417(7) (business review: non-financial information) by reason only of its having been a member of an ineligible group at any time within the financial year in question.”.

PART 3

OFF-BALANCE SHEET ARRANGEMENTS

Information about off-balance sheet arrangements

8. After section 410 of the 2006 Act insert—

“Information about off-balance sheet arrangements

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

- (a) the company 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 from those arrangements are material,

the information required by this section must be given in notes to the company’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 company.

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

(4) If the company 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 company.”.

PART 4

MINOR AMENDMENTS

Individual accounts: applicable accounting framework

9. In section 395(4) of the 2006 Act (circumstances in which company which has opted to prepare IAS individual accounts may prepare Companies Act individual accounts), after paragraph (a) insert—

“(aa) the company ceases to be a subsidiary undertaking.”.

Individual profit and loss account where group accounts prepared

10. In section 408(2) of the 2006 Act (no obligation for profit and loss account to include information about employee numbers and costs where group accounts prepared) for “The profit and loss account” substitute “The company’s individual profit and loss account”.

Information about employee numbers and costs: group accounts

11. For section 411(7) of the 2006 Act (information about employee numbers and costs: group accounts) substitute—

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

Requirement to deliver auditor’s report on accounts and reports

12. In section 444(2) of the 2006 Act (filing obligations of company subject to small companies regime: duty to deliver auditor’s report), for “those accounts (and on the directors’ report)” substitute “the accounts (and any directors’ report) that it delivers”.

Unlimited companies exemption from obligation to file accounts

13. In section 448(3) of the 2006 Act (unlimited companies exemption from obligation to file accounts: companies to which the exemption does not apply)—

(a) for paragraph (b) substitute—

“(b) each of the members of the company is—

(i) a limited company,

(ii) another unlimited company each of whose members is a limited company,
or

(iii) a Scottish partnership each of whose members is a limited company.”;

(b) after that paragraph insert—

“The references in paragraph (b) to a limited company, another unlimited company or a Scottish partnership include a comparable undertaking incorporated in or formed under the law of a country or territory outside the United Kingdom.”.

Minister of State for Competitiveness
Department for Business, Enterprise and
Regulatory Reform

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement in part Directive 2006/46 of the European Parliament and the Council of 14th June 2006 amending Council Directives [78/660/EEC](#) on the annual accounts of certain types of companies, [83/349/EEC](#) on consolidated accounts, [86/635/EEC](#) on the annual accounts and consolidated accounts of banks and other financial institutions and [91/674/EEC](#) on the annual accounts and consolidated accounts of insurance undertakings (OJ L 224, 16.8.2006, pages 1 to 7). The Directive is also to be implemented by the Small Companies and Groups (Accounts and Directors' Report) Regulations 2008, the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008, and by the Financial Services Authority using powers under the Financial Services and Markets Act 2000 (c.8).

Regulations 3 to 5 implement Article 1, paragraphs 1 to 4 of Directive 2006/46. They raise the financial thresholds contained in sections 382, 383, 465, 466, 477 and 479 of the 2006 Act which determine when a company or group qualifies as small or medium-sized for the purposes of certain accounting and reporting exemptions, and for exemption from audit.

For small companies, the turnover limit is increased from £5.6 million to £6.5 million, and the balance sheet total from £2.8 million to £3.26 million. For small groups, the aggregate turnover limit is increased from £5.6 million net (or £6.72 million gross) to £6.5 million net (or £7.8 million gross), and the aggregate balance sheet total from £2.8 million net (or £3.36 million gross) to £3.26 million net (or £3.9 million gross).

For medium-sized companies, the turnover limit is increased from £22.8 million to £25.9 million, and the balance sheet total from £11.4 million to £12.9 million. For medium-sized groups, the aggregate turnover limit is increased from £22.8 million net (or £27.36 million gross) to £25.9 million net (or £31.1 million gross), and the aggregate balance sheet total from £11.4 million net (or £13.68 million gross) to £12.9 million net (or £15.5 million gross).

Regulations 6 and 7 amend various provisions in order to reinstate certain exemptions relating to the directors' report in section 247A(1A) of the Companies Act 1985 (c.6) for small and medium-sized companies that would otherwise not be able to take advantage of them only because they are members of ineligible groups.

Regulation 8 implements Articles 1.6 first point and 2.1 first point of Directive 2006/46. It inserts a new section 410A into the 2006 Act requiring companies to make certain disclosures about off-balance sheet arrangements in the notes to their accounts. Section 410A(4) provides that medium-sized companies do not have to disclose the financial impact of off-balance sheet arrangements.

Regulations 9 to 13 make minor amendments.

The Regulations come into force on 6th April 2008 and apply to financial years beginning on or after that date. Regulation 2(3) makes transitional provision to enable companies to take early advantage of the new financial thresholds for small and medium-sized companies.

A transposition note has been prepared which sets out how Directive 2006/46 is to be transposed into UK law. An Impact Assessment of the effect that the implementation of Directive 2006/46 will have on the costs of business, charities or voluntary bodies has also been prepared. Both are available from the Department for Business, Enterprise and Regulatory Reform, Corporate Law and Governance Directorate, 1 Victoria Street, London SW1. They are also available electronically at www.berr.gov.uk. Copies have also been placed in the libraries of both Houses of Parliament.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008 No. 393

Otherwise, an Impact Assessment has not been produced for these Regulations as they have only a negligible impact on the costs of business, charities or voluntary bodies.