

1990 No. 142 (C.5)

COMPANIES

**The Companies Act 1989 (Commencement No. 2)
Order 1990**

Made - - - - *31st January 1990*

The Secretary of State, in exercise of his powers under section 215(2) and (3) of the Companies Act 1989(a), hereby makes the following Order:

Citation

1. This Order may be cited as the Companies Act 1989 (Commencement No. 2) Order 1990.

Provisions of the Companies Act 1989 commenced by this Order

2. In Part I of the Companies Act 1989, sections 1 and 15 shall come into force on 1st March 1990 for the purpose of inserting the new section 251 into Part VII of the Companies Act 1985(b) in place of the existing section 251, subject to the transitional and saving provisions set out in article 8 below.

3. The provisions of Part II of the Companies Act 1989 specified in the first column of the Schedule to this Order shall come into force on 1st March 1990 for the purposes specified in the second column thereof.

4. Insofar as they are not yet in force, the provisions of Part III of the Companies Act 1989 shall come into force on 21st February 1990:

- (a) except for sections 65(2)(g) and 75(3)(c) thereof to the extent that they refer to a body established by order under section 46 of that Act; and
- (b) except to the extent that sections 65(2), 75(3), 80, 81(2) and (5) and 87(4) thereof refer to Part VII of that Act.

5. In Part V of the Companies Act 1989 paragraphs 1, 8, 9, 12, 19 and 21 of Schedule 19, together with section 145 so far as it relates to those paragraphs, shall come into force on 1st March 1990.

6. In Part VI of the Companies Act 1989:

- (a) section 152 shall come into force on 1st March 1990;
- (b) sections 146 and 151 shall come into force on 1st April 1990; and
- (c) paragraphs 1, 13, 17, 21 and 26 of Schedule 20, together with section 153 so far as it relates to those paragraphs, shall come into force on 1st April 1990(c).

(a) 1989 c.40.

(b) 1985 c.6.

(c) The remaining provisions of Schedule 20, and section 153 so far as it relates to them, were brought into force by section 215 of the Companies Act 1989 with effect from Royal Assent (16th November 1989).

7. In Part X of the Companies Act 1989:

- (a) section 208 shall come into force on 1st March 1990;
- (b) section 209 shall come into force on 21st February 1990;
- (c) section 210 shall come into force on 1st April 1990;
- (d) the repeals effected by Schedule 24 in or of sections 46(3) and 85 of the Fair Trading Act 1973(d), sections 435, 440, 443, 446, 447, 449, 452 and 735A of the Companies Act 1985, section 21(2) of the Company Directors Disqualification Act 1986(e), sections 94, 105, 179, 180, 198(1) and 199(1) of the Financial Services Act 1986(f) and section 84(1) of the Banking Act 1987(g), together with section 212 so far as relating to those repeals, shall come into force on, in the case of the repeals in the Companies Act 1985, Financial Services Act 1986 and Banking Act 1987, 21st February 1990, in the case of the repeal in the Company Directors Disqualification Act 1986, 1st March 1990, and in the case of the repeals in the Fair Trading Act 1973, 1st April 1990; and
- (e) sections 213 to 215 shall come into force on 2nd February 1990, insofar as they are not already in force.

Transitional provisions relating to section 15

8.—(1) In this article, “the unamended Part VII” means Part VII of the Companies Act 1985 prior to its amendment by the provisions of Part I of the Companies Act 1989 (except for the insertion of the new section 251 as a result of article 2 of this Order) and “a company’s accounts” means the documents referred to in section 239 of the unamended Part VII.

(2) The new section 251 inserted by section 15 of the Companies Act 1989 shall apply with respect to a financial year for which a company’s accounts are prepared under the provisions of the unamended Part VII as if:

- (a) the references in sub-sections (1) and (2) thereof to section 238(1) were references to section 240(1) of the unamended Part VII;
- (b) the references therein to the company’s annual accounts were references to the documents referred to in section 239(a) and (d) of the unamended Part VII;
- (c) the reference in sub-section 4(d) thereof to section 237(3) was a reference to section 237(4) of the unamended Part VII; and
- (d) the reference in sub-section (7) thereof to section 240 was a reference to section 255 of the unamended Part VII.

(3) The repeal of the existing section 251 of the Companies Act 1985 by sections 1 and 15 of the Companies Act 1989 shall not affect the continued operation of any regulations previously made thereunder(h).

31st January 1990

John Redwood
Parliamentary Under-Secretary of State,
Department of Trade and Industry

(d) 1973 c.41.

(e) 1986 c.46.

(f) 1986 c.60.

(g) 1987 c.22.

(h) The Secretary of State has exercised his powers under section 251, so as to amend the conditions for qualification as a small or medium-sized company, in the Companies (Modified Accounts) Amendment Regulations 1986 (S.I. 1986/1865).

SCHEDULE

Article 3

PROVISIONS OF PART II OF THE COMPANIES ACT 1989 COMING INTO FORCE ON 1ST MARCH 1990

PROVISIONS OF PART II	PURPOSES
Section 24 (Introduction).	For the purposes of any provision brought into force by article 3 of this Order.
Section 30 (Supervisory bodies).	For all purposes.
Section 31 (Meaning of "appropriate qualification").	For purposes relating to the recognition of supervisory bodies under Schedule 11 to the Act and for the purpose of enabling the Secretary of State to approve a qualification under the provisions of section 31(4) and (5).
Section 32 (Qualifying bodies and recognised professional qualifications).	For all purposes.
Section 33 (Approval of overseas qualifications).	For all purposes.
Section 37 (Matters to be notified to the Secretary of State).	For all purposes.
Section 38 (Power to call for information).	For all purposes.
Section 39 (Compliance orders).	For all purposes.
Section 40 (Directions to comply with international obligations).	For all purposes.
Section 41(1) and (4) (False and misleading statements in connection with application or in purported compliance with requirement).	For the purposes of an application under any provision brought into force by article 3 of this Order or of any requirement imposed under any such provision.
Section 41(3) (False and misleading statements as to recognised status).	For all purposes.
Section 41(5) and (6)	For the purposes of section 41(3).
Section 42 (Offences by bodies corporate, partnerships and unincorporated associations).	For the purposes of any provision brought into force by article 3 of this Order.
Section 43 (Time limits for prosecution of offences).	For the purposes of any provision brought into force by article 3 of this Order.
Section 44 (Jurisdiction and procedure in respect of offences).	For the purposes of any provision brought into force by article 3 of this Order.
Section 45 (Fees).	For all purposes.
Section 47(1) (Restrictive practices).	For all purposes.
Section 48(1) and (2) (Exemption from liability for damages—recognised supervisory bodies).	For all purposes.
Section 49 (Service of notices).	For the purposes of any provision brought into force by article 3 of this Order.
Section 50 (Power to make consequential amendments).	For all purposes.
Section 51 (Power to make provision in consequence of changes affecting accountancy bodies).	For all purposes.
Section 52 (Meaning of "associate").	For the purposes of any provision brought into force by article 3 of this Order.

SCHEDULE – continued

PROVISIONS OF PART II	PURPOSES
Section 53 (Minor definitions).	For the purposes of any provision brought into force by article 3 of this Order.
Section 54 (Index of defined expressions).	For the purposes of any provision brought into force by article 3 of this Order.
Schedule 11 (Recognition of supervisory body).	For all purposes.
Schedule 12 (Recognition of professional qualification).	For all purposes.
Schedule 14 (Supervisory and qualifying bodies: restrictive practices).	For all purposes.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force certain of the provisions of the Companies Act 1989.

Article 2 of this Order brings into force sections 1 and 15 in Part I of the Act (Company Accounts) on 1st March 1990, for the purpose of inserting a new section 251 into Part VII of the Companies Act 1985. This new section permits a public company with a Stock Exchange listing to circulate a summary financial statement to members of the company in place of full accounts, in such cases as may be specified in regulations made by the Secretary of State. Article 8 makes transitional provisions for financial years of a company for which accounts and a directors' report are prepared under the Companies Act 1985 prior to its amendment by the Companies Act 1989.

Article 3 of this Order brings into force on 1st March 1990 those provisions of Part II of the Companies Act 1989 (Regulation of Auditors) necessary to enable recognition to be granted to supervisory bodies and to professional qualifications (including overseas qualifications). Article 3 also brings into force on the same date the provisions of Part II of the Act relating to the withdrawal of recognition from such bodies and qualifications, to the ability of the Secretary of State to obtain a compliance order, to information to be supplied by recognised supervisory bodies or by bodies offering a recognised qualification, to the payment of fees and to the position of supervisory bodies and bodies offering recognised qualifications under competition law. Also brought into force thereby on that date are provisions of Part II of the Act exempting a recognised supervisory body from liability for damages in certain circumstances and provisions concerning false and misleading statements made in connection with applications for recognition, recognised status or with requirements imposed on recognised supervisory bodies or bodies offering a recognised qualification.

Article 4 of this Order brings the remaining provisions of Part III of the Companies Act 1989 (Investigations and Powers to obtain information) not already in force into force on 21st February 1990 with the exception of references to a body established by order under section 46 of the Act and to provisions of Part VII of the Act (Financial Markets and Insolvency).

Article 5 of this Order brings into force, in Part V (Other amendments of company law) certain minor amendments made by section 145 and Schedule 19. These are paragraphs 1 (Correction of cross-reference), 8 (Transactions with directors not requiring authorisation), 9 (Time limit for holding extraordinary general meeting convened on members' requisition), 12 (Requirements for registration by joint stock companies), 19 (Meaning of "office copy" in Scotland) and 21 (Fraudulent trading by unregistered companies).

Article 6 of this Order brings into force on 1st March 1990 (section 152) and 1st April 1990 (the other provisions) those remaining provisions of Part VI of the Companies Act 1989 (Mergers and related matters) which were not brought into force at Royal Assent. They amend the Fair Trading Act 1973 to enable mergers to be prenotified to the Director General of Fair Trading (section 146) and to make it an offence to furnish false or misleading information to the Director, the Monopolies and Mergers Commission or the Secretary of State in connection with their functions under that Act or the Competition Act 1980 (c.21) (section 151). Section 152 enables the Secretary of State to make regulations providing for fees to be charged in connection with functions exercised by him, the Director or the Commission under Part V of the Fair Trading Act 1973. The remaining minor amendments contained in Schedule 20 to the Companies Act 1989 which had not already been brought into force at Royal Assent (and which all relate to mergers and connected matters) are also brought into force.

Article 7 of this Order brings into force the following provisions in Part X of the Act (Miscellaneous and general provisions):

- section 208 (Summary proceedings in Scotland for offences in connection with disqualification of directors), on 1st March 1990;
- section 209 (Prosecutions in connection with insider dealing), on 21st February 1990;
- section 210 (Restriction of duty to supply statements of premium income), on 1st April 1990;
- section 212 and Schedule 24, which set out the repeals of enactments made by the Companies Act 1989, to the extent that they relate to the other provisions of the Act brought into force by this Order and on the dates those provisions come into force; and
- the remaining provisions (insofar as they are not already in force), with the exception of section 211, on 2nd February 1990.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Companies Act 1989 have been brought into force by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s.75(2)	25.1.1990	S.I. 1990/98
s.75(3), in so far as it provides for the insertion in s.180(1) of the Financial Services Act 1986 of a new paragraph (oo)	25.1.1990	S.I. 1990/98
s.75(4) in so far as it provides a definition of "public servant" for the purposes of the new s.180(1)(oo) of the Financial Services Act 1986	25.1.1990	S.I. 1990/98
s.75(7)	25.1.1990	S.I. 1990/98
s.216	25.1.1990	S.I. 1990/98