
S T A T U T O R Y I N S T R U M E N T S

1990 No. 2569 (C. 68)

COMPANIES

**The Companies Act 1989 (Commencement No. 8 and
Transitional and Saving Provisions) Order 1990**

Made - - - -

17th December 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 and Interpretation

1. This Order may be cited as the Companies Act 1989 (Commencement No. 8 and Transitional and Saving Provisions) Order 1990.

2. In this Order:

“the 1989 Act” means the Companies Act 1989; and

“the 1985 Act” means the Companies Act 1985(b).

Provisions of the 1989 Act commenced by this Order

3. With the exception of sections 1 and 11 insofar as they insert a new section 242A into the 1985 Act, the provisions of Part I of the 1989 Act not already in force shall come into force on 7th January 1991, subject to the transitional and saving provisions set out in Article 6 of this Order.

4. In Part V of the 1989 Act:

- (a) sections 108 to 112 shall come into force on 4th February 1991, subject to the transitional and saving provisions set out in Article 7 of this Order;
- (b) sections 125 and 127(1), (2) and (4) shall come into force on 7th January 1991, together with, to the extent that it has the effect of inserting into Schedule 22 of the 1985 Act a reference to the new sections 706, 707 and 715A of the 1985 Act inserted by those sections, section 127(7);
- (c) section 135 shall come into force on 7th January 1991;
- (d) paragraph 10 of Schedule 19, together with section 145 so far as it extends to that paragraph, shall come into force on 7th January 1991; and
- (e) paragraph 11 of Schedule 19, together with section 145 so far as it extends to that paragraph, shall come into force on 4th February 1991.

5. In Part X of the 1989 Act:

- (a) the repeal effected by Schedule 24 of section 708(1)(b) of the 1985 Act, together with section 212 so far as relating to that repeal, shall come into force on 7th January 1991;

- (b) the repeal effected by Schedule 24 of Schedule 15 to the 1985 Act, together with section 212 so far as relating to that repeal, shall come into force on 7th January 1991, subject to the transitional and saving provisions made by Articles 4 and 5 of the Companies Act 1989 (Commencement No. 7 and Transitional and Saving Provisions) Order 1990(a); and
- (c) the repeals effected by Schedule 24 of the entries relating to section 245(1) and (2) in Schedule 24 to the 1985 Act, together with section 212 so far as relating to those repeals, shall come into force on 7th January 1991 subject to the transitional and saving provisions set out in Article 6 of this Order.

Transitional and saving provisions relating to provisions commenced in Part I of the 1989 Act

6.—(1) Notwithstanding:

- (a) the repeal of section 245 of the 1985 Act as originally enacted by the commencement by this Order of section 12 of the 1989 Act; and
- (b) the commencement by this Order of the provisions in paragraph 24(2) of Schedule 10 to the 1989 Act which omit the references to the said section 245 in Schedule 24 to the 1985 Act (Punishment of offences);

section 245 of the 1985 Act as originally enacted (together with the references to that section in Schedule 24 to the 1985 Act) shall continue to have effect:

- (i) with respect to a company's accounts for a financial year commencing on a date prior to 23rd December 1989, where those accounts are laid before the company in general meeting or delivered to the registrar on or after 7th January 1991; and
- (ii) with respect to the annual accounts of a company for a financial year commencing on or after 23rd December 1989, if those accounts have been approved by the directors under section 233 of the 1985 Act (as inserted by section 7 of the 1989 Act) prior to 7th January 1991 but are laid before the company in general meeting or delivered to the registrar on or after that date.

Nothing in this paragraph is to be taken as prejudicing the application of section 16 of the Interpretation Act 1978 (Repealing enactments: General Savings)(b).

(2) Section 233(5) of the 1985 Act (as inserted by section 7 of the 1989 Act) and sections 245(1) and (2), 245A and 245B of the 1985 Act (all as inserted by section 12 of the 1989 Act) shall have effect, as from their commencement, with respect to the annual accounts of a company for a financial year commencing on or after 23rd December 1989, but shall not apply with respect to a company's accounts for a financial year commencing prior to that date.

(3) In this article "a company's accounts" has the meaning given to it by section 239 of the 1985 Act as originally enacted and other expressions shall bear the meaning ascribed to them in the 1985 Act as amended by the 1989 Act.

(4) The transitional and saving provisions set out in this article shall have effect (so far as applicable) in relation to any body corporate to which Part VII of the 1985 Act is applied (whether or not subject to modification) by any enactment (including any subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978) as they have effect in relation to a company, unless the context otherwise requires, and accordingly references in this Article to a company shall be construed as including such a body corporate.

Transitional and saving provisions relating to sections 108 to 112 of the 1989 Act

7.—(1) Nothing in new section 35 of the 1985 Act (as inserted by section 108(1) of the 1989 Act) shall affect the validity or invalidity of any act done by a company prior to 4th February 1991; nor shall subsection (3) of that section enable any ratification of any action taken by the directors of a company prior to that date.

(2) Nothing in section 35A of the 1985 Act (as inserted by section 108(1) of the 1989 Act) shall affect the validity or invalidity of any act of or transaction entered into by a company prior to 4th February 1991.

(3) Nothing in section 322A of the 1985 Act (as inserted by section 109(1) of the 1989 Act) shall affect any transaction entered into by a company prior to 4th February 1991.

(4) Nothing in section 30B of the Charities Act 1960(a) (as inserted by section 111 of the 1989 Act) or in section 112(3) of the 1989 Act shall be construed as affecting any act of or transaction entered into by a company prior to 4th February 1991.

(5) In this Article "company" includes any body corporate to which sections 35, 35A and 322A applied by virtue of any enactment.

Amendment of earlier Commencement Order

8.—(1) The amendment made by this article to the Companies Act 1989 (Commencement No. 4 and Transitional and Saving Provisions) Order 1990 takes effect on 7th January 1991.

(2) Paragraph 2 of Part I of Schedule 2 to the Companies Act 1989 (Commencement No. 4 and Transitional and Saving Provisions) Order 1990(b) is hereby revoked save to the extent that section 245 of the 1985 Act as originally enacted is continued in force by Article 6 of this Order.

17th December 1990

John Redwood
Minister of State
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Order)

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

Article 3 of this Order has the effect of commencing, on 7th January 1991, sections 7 (insofar as it inserts a section 233(5) into Part VII of the Companies Act 1985) and 12 of the 1989 Act, together with section 23 of, and Schedule 10 to, the 1989 Act (so far as already not in force). Sections 7 (so far as relevant) and 12 substitute a new offence of approving defective accounts for an existing offence, permit the voluntary revision of defective accounts and provide for a new statutory procedure for the Secretary of State or a person authorised by him to go to court to obtain an order compelling the revision of defective accounts. The provisions of section 23 and Schedule 10 commenced by this Order are minor and consequential amendments relating to the provisions on defective accounts. The commencement of these various provisions is made subject to the transitional and saving provisions set out in Article 6. In short, the effect of these transitional and saving provisions is that certain of the provisions commenced by this Order are to apply with respect to accounts for financial years commencing on or after 23rd December 1989, and that section 245 of the Companies Act 1985 as originally enacted (which makes the laying or delivering of defective accounts an offence) is continued in force for certain purposes. The provisions of Part I of the 1989 Act already in force at the date of this Order are subject to transitional and saving provisions set out in the Companies Act 1989 (Commencement No. 4 and Transitional and Saving Provisions) Order 1990; that Order is amended by Article 8 of this order to reflect the provisions of this Order.

Article 4 of the Order commences, on 4th February 1991, sections 108 to 112 of the 1989 Act, which deal with a company's capacity and related matters. Article 7 sets out transitional and saving provisions with respect to these sections, the effect of which is to clarify that they are to have no retrospective effect.

Article 4 of the Order also commences:

- (a) (on 7th January 1991) sections 125 and (in part) 127 of the 1989 Act; these sections insert new sections into the Companies Act 1985 which deal with the form in which documents are to be delivered to the registrar of companies and connected matters;
- (b) (on 7th January 1991) section 135 of the 1989 Act (orders imposing restrictions on shares);
- (c) (on 7th January 1991) paragraph 10 of Schedule 19 to the 1989 Act (removal of restriction on transfer of shares); and
- (d) (on 4th February 1991) paragraph 11 of Schedule 19 (protection of company's members against unfair prejudice).

Article 5 of this Order commences (on 7th January 1991) certain repeals effected by Schedule 24 to, and section 212 of, the 1989 Act. They relate to the other provisions commenced by this Order or, in the case of the repeal of Schedule 15 to the Companies Act 1985, to provisions commenced by the Companies Act 1989 (Commencement No. 7 and Transitional and Saving Provisions) Order 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>
Ss. 1 and 15 but only for the purpose of inserting a new section 251 into the Companies Act 1985 (subject to certain transitional and saving provisions)	1.3.1990	S.I. 1990/142
The remaining provisions of Part I (subject to important transitional and saving provisions) other than section 7 (insofar as it inserts a new section 233(5) into the Companies Act 1985), 11 (insofar as it inserts a new section 242A into the Companies Act 1985), 12 and 23 (in part)	1.4.1990 (save paragraph 19 of Schedule 10 which is commenced on 1.8.1990)	S.I. 1990/355
S. 24 but only for the purposes of any provision brought into force by Article 3 of S.I. 1990/142	1.3.1990	S.I. 1990/142
S. 30	1.3.1990	S.I. 1990/142
S. 31 but only for purposes relating to the recognition of supervisory bodies under Sch. 11 to the Companies Act 1989 ("the 1989 Act") and for the purpose of enabling the Secretary of State to approve a qualification under section 31(4) and (5) of the 1989 Act	1.3.1990	S.I. 1990/142
Ss. 32 and 33	1.3.1990	S.I. 1990/142
Ss. 37 to 40	1.3.1990	S.I. 1990/142
S. 41(1) and (4) but only for the purposes of an application under any provision brought into force by Article 3 of S.I. 1990/142 or of any requirement imposed under any such provision	1.3.1990	S.I. 1990/142
S. 41(3)	1.3.1990	S.I. 1990/142
S. 41(5) and (6) but only for the purposes of s. 41(3) of the 1989 Act	1.3.1990	S.I. 1990/142
Ss. 42 to 44 but only for the purposes of any provision brought into force by Article 3 of S.I. 1990/142	1.3.1990	S.I. 1990/142
S. 45	1.3.1990	S.I. 1990/142
S. 47(1)	1.3.1990	S.I. 1990/142

NOTE AS TO EARLIER COMMENCEMENT ORDERS – *continued*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
S. 48 (1) and (2)	1.3.1990	S.I. 1990/142
S. 49 but only for the purposes of any provision brought into force by Article 3 of S.I. 1990/142	1.3.1990	S.I. 1990/142
Ss. 50 and 51	1.3.1990	S.I. 1990/142
Ss. 52 to 54 but only for the purposes of any provision brought into force by Article 3 of S.I. 1990/142	1.3.1990	S.I. 1990/142
Ss. 55 to 64	21.2.1990	S.I. 1990/142
S. 65(1)	21.2.1990	S.I. 1990/142
S. 65 (2) except to the extent that it refers to Part VII of the 1989 Act and except, in the case of s. 65(2)(g), to the extent that the said paragraph refers to a body established under s. 46 of the 1989 Act	21.2.1990	S.I. 1990/142
S. 65(3) to (7)	21.2.1990	S.I. 1990/142
S. 66 to 74	21.2.1990	S.I. 1990/142
S. 75(1)	21.2.1990	S.I. 1990/142
S. 75(2)	25.1.1990	S.I. 1990/98
S. 75(3), insofar 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(3) except insofar as brought into force as referred to above, except to the extent that it refers to Part VII of the 1989 Act and except, in the case of s. 75(3)(c), to the extent that it refers to a body established by order under s. 46 of the 1989 Act	21.2.1990	S.I. 1990/142
S. 75(4) insofar 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(4) except insofar as brought into force as referred to above	21.2.1990	S.I. 1990/142
S. 75 (6)	21.2.1990	S.I. 1990/142
S. 75 (7)	25.1.1990	S.I. 1990/98
Ss. 76 to 79	21.2.1990	S.I. 1990/142
S. 80 except to the extent that it refers to Part VII of the 1989 Act	21.2.1990	S.I. 1990/142
S. 81(1)	21.2.1990	S.I. 1990/142

NOTE AS TO EARLIER COMMENCEMENT ORDERS – *continued*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
S. 81(2) except to the extent that it refers to Part VII of the 1989 Act	21.2.1990	S.I. 1990/142
S. 81(3) and (4)	21.2.1990	S.I. 1990/142
S. 81(5) except to the extent that it refers to Part VII of the 1989 Act	21.2.1990	S.I. 1990/142
Ss. 82 to 86	21.2.1990	S.I. 1990/142
S. 87(1) to (3)	21.2.1990	S.I. 1990/142
S. 87(4) except to the extent that it refers to Part VII of the 1989 Act	21.2.1990	S.I. 1990/142
S. 87(5) and (6)	21.2.1990	S.I. 1990/142
Ss. 88 to 91	21.2.1990	S.I. 1990/142
Sections 113 to 124 (subject to transitional and saving provisions)	1.4.1990	S.I. 1990/355
S. 129	1.11.1990	S.I. 1990/1392
S. 130 (and Sch. 17)	31.7.1990	S.I. 1990/1392
Ss. 131 and 132 (subject to, in the case of the former, a saving provision)	1.4.1990	S.I. 1990/355
S. 134(1) to (3), (5) and (6) (subject to certain provisions)	31.5.1990	S.I. 1990/713
S. 136 (subject to a transitional provision)	1.4.1990	S.I. 1990/355
S. 137(1); s. 137(2) in part (subject to a transitional provision)	1.4.1990	S.I. 1990/355
S. 138 (subject to saving provision)	31.7.1990	S.I. 1990/1392
S. 139 (subject to transitional and saving provisions)	1.10.1990	S.I. 1990/1707
S. 144 (and Sch. 18) (subject to transitional provisions)	1.11.1990	S.I. 1990/1392
S. 145 but only insofar as it relates to paragraphs 1, 8, 9, 12, 19 and 21 of Sch. 19 to the 1989 Act	1.3.1990	S.I. 1990/142
S. 145 but only insofar as it relates to paragraphs 15 to 18 of Sch. 19 to the 1989 Act	1.4.1990	S.I. 1990/355
S. 145 but only insofar as it relates to paragraphs 2 to 7 and 14 of Sch. 19 to the 1989 Act (subject, in the case of paragraphs 2 and 6, to transitional and saving provisions)	1.10.1990	S.I. 1990/1707
S. 146	1.4.1990	S.I. 1990/142
S. 151	1.4.1990	S.I. 1990/142
S. 152	1.3.1990	S.I. 1990/142

NOTE AS TO EARLIER COMMENCEMENT ORDERS – *continued*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
S. 153 but only insofar as it relates to paragraphs 1, 13, 17, 21 and 26 of Sch. 20 to the 1989 Act	1.4.1990	S.I. 1990/142
S. 192 insofar as it inserts s. 47A into the Financial Services Act 1986 (subject to transitional and saving provisions)	15.3.1990	S.I. 1990/354
S. 193 insofar as is necessary in order to enable regulations to be made under s. 62A of, and paragraph 22A of Sch. 11 to, the Financial Services Act 1986 (subject to transitional and saving provisions)	15.3.1990	S.I. 1990/354
Ss. 194 to 200 (subject to transitional and saving provisions)	15.3.1990	S.I. 1990/354
Ss. 203 to 205 (subject to transitional and saving provisions)	15.3.1990	S.I. 1990/354
S. 206(1) except insofar as it relates to the insertion by paragraph 32 of Sch. 23 to the 1989 Act of paragraph 13B into Sch. 11 to the Financial Services Act 1986 (subject to transitional and saving provisions)	15.3.1990	S.I. 1990/354
S. 206(2) to (4) (subject to transitional and saving provisions)	15.3.1990	S.I. 1990/354
S. 207	1.11.1990	S.I. 1990/1392
S. 208	1.3.1990	S.I. 1990/142
S. 209	21.2.1990	S.I. 1990/142
S. 210	1.4.1990	S.I. 1990/142
S. 211(2) (subject to a saving provision) and (3)	31.7.1990	S.I. 1990/1392
S. 212 insofar as it relates to the repeals effected by Sch. 24 to the 1989 Act referred to below	On the dates referred to below in connection with Sch. 24	In the S.I.s listed below in connection with Sch. 24
Sch. 24 insofar as it relates to repeals in or of ss. 435, 440, 443, 446, 447, 449, 452 and 735A of the Companies Act 1985, ss. 94, 105, 179, 180, 198(1) and 199(9) of the Financial Services Act 1986 and s. 84(1) of the Banking Act 1987	21.2.1990	S.I. 1990/142

NOTE AS TO EARLIER COMMENCEMENT ORDERS – *continued*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sch. 24 insofar as it relates to the repeal in s. 21(2) of the Company Directors Disqualification Act 1986	1.3.1990	S.I. 1990/142
Sch. 24 insofar as it relates to the repeals in, or of, ss. 48, 55, 119, 159 and 160 of, and paragraphs 4, 10 and 14 of Sch. 11 to the Financial Services Act 1986	15.3.1990	S.I. 1990/354
Sch. 24 insofar as it relates to repeals in, or of, ss. 46(3) and 85 of the Fair Trading Act 1973	1.4.1990	S.I. 1990/142
Sch. 24 insofar as it relates to repeals in, or of, s. 42(6) of the Harbours Act 1964; ss. 716, 717, 744 (in part) and 746 of, and Schs. 2, 4, 9, 11, 22 (in part) and 24 (in part) to, the Companies Act 1985; paragraphs 23 and 45 of Sch. 6 to the Insolvency Act 1985; and the entries in Part I of Sch. 13 to the Insolvency Act 1986 relating to ss. 222(4) and 225	15.3.1990	S.I. 1990/354
Sch. 24 insofar as it relates to repeals in or of s. 199(9) of, and paragraph 22 of Sch. 16 to, the Financial Services Act 1986	1.4.1990	S.I. 1990/355
Sch. 24 insofar as it relates to repeals in or of ss. 201, 202(1) and 209(1)(j) of the Companies Act 1985	31.5.1990	S.I. 1990/713
Sch. 24 insofar as it relates to repeals in or of s. 651(1) and Sch. 22 (in part) of the Companies Act 1985	31.7.1990	S.I. 1990/1392
Sch. 24 insofar as it relates to repeals in or of Schs. 15 and 18 of the Building Societies Act 1986	31.7.1990	S.I. 1990/1392
Sch. 24 insofar as it relates to repeals in or of ss. 466(2) and 733(3) of and Schs. 22 (in part) and 24 (in part) of the Companies Act 1985 (subject, in the case of Schs. 22 and 24, to transitional and saving provisions)	1.10.1990	S.I. 1990/1707

NOTE AS TO EARLIER COMMENCEMENT ORDERS – *continued*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sch. 24 insofar as it relates to Part I of Sch. 13 to the Insolvency Act 1986 (in part)	1.10.1990	S.I. 1990/1707
Ss. 213 to 215 insofar as they were not already in force at the time of the making of S.I. 1990/142	2.2.1990	S.I. 1990/142
S. 216	25.1.1990	S.I. 1990/98
