
STATUTORY INSTRUMENTS

2005 No. 1011

The Companies Act 1985 (Operating and Financial
Review and Directors' Report etc.) Regulations 2005

PART 3

Operating and financial reviews

Duty to prepare operating and financial review

8. After section 234A of the 1985 Act (approval and signing of directors' report)(1), insert—

“Quoted companies: operating and financial review

Duty to prepare operating and financial review

234AA

(1) The directors of a quoted company shall for each financial year prepare an operating and financial review.

(2) The review must comply with Schedule 7ZA (objective and contents of operating and financial review), save that nothing in that Schedule requires the disclosure of information about impending developments or about matters in the course of negotiation if the disclosure would, in the opinion of the directors, be seriously prejudicial to the interests of the company.

(3) For a financial year in which—

- (a) the company is a parent company, and
- (b) the directors of the company prepare group accounts,

the operating and financial review must be a consolidated review (a “group operating and financial review”) relating, to the extent specified in Schedule 7ZA, to the company and its subsidiary undertakings included in the consolidation.

(4) A group operating and financial review may, where appropriate, give greater emphasis to the matters that are significant to the company and its subsidiary undertakings included in the consolidation, taken as a whole.

(5) If an operating and financial review does not comply with the provisions of this Part relating to the preparation and contents of the review, every director of the company who—

- (a) knew that it did not comply or was reckless as to whether it complied, and
- (b) failed to take all reasonable steps to secure compliance with the provision in question,

is guilty of an offence and liable to a fine.

(1) Section 234A was inserted by section 8(1) of the Companies Act 1989.

Approval and signing of operating and financial review

234AB.—(1) The operating and financial review must be approved by the board of directors and signed on behalf of the board by a director or the secretary of the company.

(2) Every copy of the operating and financial review laid before the company in general meeting, or that is otherwise circulated, published or issued, must state the name of the person who signed it on behalf of the board.

(3) The copy of the operating and financial review delivered to the registrar must be signed on behalf of the board by a director or the secretary of the company.

(4) If a copy of the operating and financial review—

(a) is laid before the company, or otherwise circulated, published or issued without the review having been signed as required by this section or without the required statement of the signatory’s name being included, or

(b) is delivered to the registrar without being signed as required by this section,

the company and every officer of it who is in default is guilty of an offence and liable to a fine.”

Objective and contents of operating and financial review

9. After Schedule 7 to the 1985 Act insert—

“SCHEDULE 7ZA

Operating and financial review

Review objective

1. An operating and financial review must be a balanced and comprehensive analysis, consistent with the size and complexity of the business, of—

(a) the development and performance of the business of the company during the financial year,

(b) the position of the company at the end of the year,

(c) the main trends and factors underlying the development, performance and position of the business of the company during the financial year, and

(d) the main trends and factors which are likely to affect the company’s future development, performance and position,

prepared so as to assist the members of the company to assess the strategies adopted by the company and the potential for those strategies to succeed.

Other general requirements

2. The review must include—

(a) a statement of the business, objectives and strategies of the company;

(b) a description of the resources available to the company;

(c) a description of the principal risks and uncertainties facing the company; and

(d) a description of the capital structure, the treasury policies and objectives and the liquidity of the company.

Details of particular matters

3.—(1) To the extent necessary to comply with the general requirements of paragraphs 1 and 2, the review must comply with paragraphs 4 to 6.

(2) If the review does not contain information and analysis of each kind mentioned in paragraphs 4 and 5, it must state which of those kinds of information and analysis it does not contain.

4.—(1) The review must include—

- (a) information about environmental matters (including the impact of the business of the company on the environment),
- (b) information about the company’s employees, and
- (c) information about social and community issues.

(2) The review must, in particular, include —

- (a) information about the policies of the company in each area mentioned in sub-paragraph (1), and
- (b) information about the extent to which those policies have been successfully implemented.

5. The review must also include —

- (a) information about persons with whom the company has contractual or other arrangements which are essential to the business of the company; and
- (b) information about receipts from, and returns to, members of the company in respect of shares held by them.

6.—(1) The review must include analysis using financial and, where appropriate, other key performance indicators, including information relating to environmental matters and employee matters.

(2) In sub-paragraph (1), “key performance indicators” means factors by reference to which the development, performance or position of the business of the company can be measured effectively.

Reference to and explanation of company’s accounts

7. To the extent necessary to comply with the general requirements of paragraphs 1 and 2, the review must, where appropriate, include references to, and additional explanations of, amounts included in the company’s annual accounts.

Compliance with standards

8. The review must—

- (a) state whether it has been prepared in accordance with relevant reporting standards, and
- (b) contain particulars of, and reasons for, any departure from such standards.

Application of Schedule to group operating and financial review

9. In relation to a group operating and financial review this Schedule has effect as if the references to the company (other than the last such reference in paragraph 1) were references to the company and its subsidiary undertakings included in the consolidation.”

Auditors' reports on operating and financial reviews

10. In section 235 of the 1985 Act (auditors' report), after subsection (3) insert—

“(3A) If the company is a quoted company, the auditors must state in their report—

- (a) whether in their opinion the information given in the operating and financial review for the financial year for which the annual accounts are prepared is consistent with those accounts; and
- (b) whether any matters have come to their attention, in the performance of their functions as auditors of the company, which in their opinion are inconsistent with the information given in the operating and financial review.”

Reporting standards for operating and financial reviews

11. After section 256 of the 1985 Act (accounting standards)(2) insert—

“Reporting standards

256A

(1) In this Part, “reporting standards” means statements of standard reporting practice which—

- (a) relate to operating and financial reviews, and
- (b) are issued by a body or bodies specified in an order made by the Secretary of State in accordance with section 257(4B).

(2) References in this Part to relevant reporting standards, in relation to a company’s operating and financial review, are to such standards as are, in accordance with their terms, applicable to the company’s circumstances and to the review.

(3) Where or to the extent that the directors of a company have complied with a reporting standard, they are presumed (unless the contrary is proved) to have complied with the corresponding requirements of this Part relating to the contents of an operating and financial review.”

(2) Section 256 was substituted by section 19 of the Companies Act 1989.