
STATUTORY INSTRUMENTS

2009 No. 2331

The Financial Transparency (EC Directive) Regulations 2009

PART 3

UNDERTAKINGS REQUIRED TO MAINTAIN SEPARATE ACCOUNTS

Maintenance of separate accounts

6.—(1) An undertaking which is—

- (a) granted a special right or an exclusive right, or
- (b) entrusted with any service of general economic interest and receives public service compensation, in any form whatsoever, in relation to that service,

and carries on an activity not covered by (a) or (b), shall maintain separate accounts in respect of its activities under paragraphs (a) and (b) and any other of its activities which fall outside of those paragraphs.

(2) The separate accounts referred to in paragraph (1) shall—

- (a) show the costs and revenues associated with each of its activities;
- (b) show the full details of the methods by which costs and revenues are assigned or allocated to each of its activities;
- (c) show that the internal accounts corresponding to each of its activities are separate; and
- (d) be based on clearly established, consistently applied and objectively justifiable cost accounting principles.

(3) This regulation shall not apply—

- (a) to activities in respect of which other provisions in relation to financial transparency within undertakings have been laid down by the Communities;
- (b) in relation to services supplied by an undertaking which are not liable to affect trade between Member States within the meaning of the Treaty to an appreciable extent;
- (c) to an undertaking, other than a public credit institution, whose total annual net turnover in each of the two financial years preceding the financial year in which it enjoys a special right or an exclusive right, or in which it is entrusted with a service of general economic interest, is less than 40 million euros;
- (d) to a public credit institution whose balance sheet total in each of the two financial years preceding the financial year in which it enjoys a special right or an exclusive right, or in which it is entrusted with a service of general economic interest, is less than 800 million euros; or
- (e) to an undertaking which is entrusted with the operation of a service of general economic interest pursuant to Article 86(2) of the Treaty if the compensation it receives, in any form, was fixed for an appropriate period following an open, transparent and non-discriminatory procedure.

Retention of separate accounts

7. An undertaking required to maintain separate accounts under regulation 6(1) shall retain the separate accounts for a period of five years starting on the last day of the financial year to which those accounts relate.

Provision of information by undertakings required to maintain separate accounts

8. Within 28 days of receipt of a written request by the Secretary of State, an undertaking required to maintain separate accounts under regulation 6(1) shall provide the Secretary of State with—

- (a) such information, in such form, as is requested concerning the separate accounts (this may include copies of the separate accounts) which the undertaking is required to maintain under regulation 6(1); and
- (b) such further information as is requested and considered necessary by the Secretary of State to fulfil the United Kingdom's obligations under the Financial Transparency Directive.