
STATUTORY INSTRUMENTS

2018 No. 1155

The Companies (Directors' Report) and Limited Liability Partnerships (Energy and Carbon Report) Regulations 2018

PART 3

Amendments to the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008

New Part 5A

10. After regulation 12A (strategic report), insert—

“PART 5A

ENERGY AND CARBON REPORT

Energy and carbon report

12B. Sections 415, 415A, 416 and 419 apply to LLPs, modified so that they read as follows—

“Duty to prepare energy and carbon report

415.—(1) Unless the LLP is exempted under section 415A(1) or (4), and subject to subsection (4), the members of an LLP must prepare an energy and carbon report for each financial year of the LLP.

(2) For a financial year in which—

- (a) the LLP is a parent LLP, and
- (b) the members of the LLP prepare group accounts,

the energy and carbon report must be a consolidated report (“a group energy and carbon report”) relating to the undertakings included in the consolidation.

(3) A group energy and carbon report may, where appropriate, give greater emphasis to the matters that are significant to the undertakings included in the consolidation, taken as a whole.

(4) Subsection (1) does not apply if—

- (a) the LLP is a subsidiary undertaking at the end of the financial year;
- (b) the LLP is included in the group report of a parent undertaking;
- (c) the group report is prepared for a financial year of the parent undertaking that ends at the same time as, or before the end of, the LLP’s financial year; and—

- (i) if the group report is a group energy and carbon report, it complies with Part 7A of Schedule 7 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008(1) as applied and modified by regulation 12B of the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 other than in reliance on paragraph 20D(7)(b); or
 - (ii) if the group report is a group directors' report—
 - (aa) of a quoted company, it complies with Part 7 of Schedule 7 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 other than in reliance on paragraph 15(5)(b); or
 - (bb) of an unquoted company it complies with Part 7A of Schedule 7 to those Regulations other than in reliance on paragraph 20D(7)(b).
- (5) For the purpose of subsection (4)—
- “group directors’ report” means a report prepared in accordance with section 415(2);
- “quoted company” and “unquoted company” have the meanings given in section 385.
- (6) In the case of failure to comply with the requirement to prepare an energy and carbon report, an offence is committed by every person who—
- (a) was a member of the LLP immediately before the end of the period for filing accounts and reports for the financial year in question; and
 - (b) failed to take all reasonable steps for securing compliance with that requirement.
- (7) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to a fine;
 - (b) on summary conviction—
 - (i) in England and Wales, to a fine(2);
 - (ii) in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.

Exemption to duty to prepare energy and carbon report

415A.—(1) Unless the LLP is a parent LLP, an LLP is exempted under this subsection—

- (a) in relation to its first financial year if the qualifying conditions in subsection (2) are met in that year;
- (b) in relation to a subsequent financial year—
 - (i) if the qualifying conditions are met in that year and were also met in relation to the preceding financial year;

(1) [S.I. 2008/410](#) is amended by [S.I. 2013/1970](#), [2016/575](#), [2018/860](#) and by Part 2 of these Regulations. There are other amendments which are not relevant.

(2) Section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 ([c.10](#)) applies to section 415(5)(b) of the Companies Act 2006 ([c.46](#)) to provide that the offence is punishable by a fine of any amount.

(ii) if—

- (aa) the qualifying conditions are met in that year, and
- (bb) the LLP was exempted in relation to the preceding financial year; or

(iii) if—

- (aa) the qualifying conditions were met in the preceding financial year, and
- (bb) the LLP was exempted in relation to the preceding financial year.

(2) The qualifying conditions referred to in subsection (1) are met by an LLP in a year in which it satisfies two or more of the following requirements—

1	Turnover	not more than £36 million
2	Balance sheet total	not more than £18 million
3	Number of employees	not more than 250

(3) For the purposes of subsection (2)—

- (a) for a period that is an LLP's financial year but not in fact a year the figure for turnover must be proportionately adjusted;
- (b) the balance sheet total means the aggregate of the amounts shown as assets in the LLP's balance sheet;
- (c) the number of employees means the average number of persons employed by the LLP in the year, determined as follows—
 - (i) find for each month in the financial year the number of persons employed under contracts of service by the LLP in that month (whether throughout the month or not),
 - (ii) add together the monthly totals, and
 - (iii) divide by the number of months in the financial year.

(4) A parent LLP is exempted under this subsection—

- (a) in relation to the parent LLP's first financial year if the qualifying conditions in subsection (5) are met in that year by the group headed by it;
- (b) in relation to a subsequent financial year of the parent LLP—
 - (i) if the qualifying conditions are met in that year and the preceding financial year by the group headed by the parent LLP;
 - (ii) if—
 - (aa) the qualifying conditions are met in that year by the group, and
 - (bb) the parent LLP was exempted in relation to the preceding financial year; or
 - (iii) if—
 - (aa) the qualifying conditions were met in the preceding financial year by the group, and
 - (bb) the parent LLP was exempted in relation to the preceding financial year.

(5) The qualifying conditions referred to in subsection (4) are met by a group in a year in which it satisfies two or more of the following requirements—

1	Aggregate turnover	not more than £36 million net (or £43.2 million gross)
2	Aggregate balance sheet total	not more than £18 million net (or £21.6 million gross)
3	Aggregate number of employees	not more than 250

(6) For the purposes of subsection (5), the aggregate figures are to be ascertained by aggregating the relevant figures determined in accordance with subsections (1) to (3) for each member of the group.

(7) In relation to the aggregate figures for turnover and balance sheet total—

(a) “net” means after any set-offs and other adjustments made to eliminate group transactions—

(i) in the case of non-IAS accounts, in accordance with Schedule 3 to the Large and Medium-sized Limited Liability Partnerships (Accounts) Regulations 2008(3);

(ii) in the case of IAS accounts, in accordance with international accounting standards; and

(b) “gross” means without those set-offs and other adjustments.

(8) An LLP may satisfy any requirements in subsection (5) on the basis of either the net or the gross figure.

(9) For the purposes of subsection (5)—

(a) the figures for each subsidiary undertaking must be those included in its individual accounts for the relevant financial year, that is—

(i) if its financial year ends with that of the parent LLP, that financial year, and

(ii) if not, its financial year ending last before the end of the financial year of the parent LLP; or

(b) if those figures cannot be obtained without disproportionate expense or undue delay, the latest available figures may be taken.

Contents of energy and carbon report

416.—(1) The energy and carbon report for a financial year must state—

(a) the names of the persons who, at any time during the financial year, were members of the LLP; and

(b) the name of the designated member signing the report in accordance with section 419.

(2) Regulation 10(1) and Part 7A of Schedule 7 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 apply to LLPs with the following modifications—

(a) in regulation 10(1)—

- (i) for “directors of a company”, substitute “members of an LLP”;
 - (ii) for “directors’ report”, substitute “energy and carbon report”;
 - (iii) for “Schedule 7”, substitute “Part 7A of Schedule 7”;
- (b) in Part 7A—
- (i) in the heading, omit “by unquoted companies”;
 - (ii) for paragraph 20A(1), substitute “This Part of this Schedule applies to the energy and carbon report for a financial year.”;
 - (iii) omit paragraphs 20A(2) and (3), 20B and 20C;
 - (iv) in paragraphs 20D, 20E(1) and 20E(3), for each reference to “company” except on the third and fourth occasion it appears in paragraph 20E(1) and where it appears in paragraphs 20E(3)(a) and (b), substitute “LLP”;
 - (v) in paragraphs 20D and 20G, for each reference to “company’s”, substitute “LLP’s”;
 - (vi) in paragraphs 20D, 20F, 20G, 20H, 20I and 20J, for each reference to “directors’ report”, substitute “energy and carbon report”;
 - (vii) in paragraph 20D(7)(b), for the reference to “directors”, substitute “members”;
 - (viii) in paragraph 20E(1), for the reference to “group directors’ report”, substitute “group energy and carbon report”;
 - (ix) in paragraphs 20E(2) and (3)(a) and 20K, for each reference to “Part 7 of this Schedule”, substitute “Part 7 of Schedule 7 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008”;
 - (x) in paragraph 20E(3)(b), for the reference to “this Part of this Schedule”, substitute “Part 7A of Schedule 7 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008”;
 - (xi) for paragraph 20E(4), substitute “For the purpose of this paragraph, “quoted company” and “unquoted company” have the meanings given in section 385.”.

Approval and signing of energy and carbon report

419.—(1) The energy and carbon report must be approved by the members and signed on behalf of all the members by a designated member.

(2) If an energy and carbon report is approved that does not comply with the requirements of this Act, every member who—

- (a) knew that it did not comply, or was reckless as to whether it complied, and
- (b) failed to take reasonable steps to secure compliance with those requirements or, as the case may be, to prevent the report from being approved,

commits an offence.

(3) A person guilty of an offence under this section is liable—

- (a) on conviction on indictment, to a fine;

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- (b) on summary conviction—
 - (i) in England and Wales, to a fine⁽⁴⁾;
 - (ii) in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.”.”

(4) Section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10) applies to section 419(4)(b) of the Companies Act 2006 (c.46) to provide that the offence is punishable by a fine of any amount.