
STATUTORY INSTRUMENTS

1997 No. 936

COMPANIES

The Companies Act 1985 (Audit Exemption) (Amendment) Regulations 1997

<i>Made</i>	- - - -	<i>18th March 1997</i>
<i>Laid before Parliament</i>		<i>18th March 1997</i>
<i>Coming into force</i>	- -	<i>15th April 1997</i>

The Secretary of State, in exercise of the powers conferred on him by section 257 of the Companies Act 1985(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, application and interpretation

1.—(1) These Regulations may be cited as the Companies Act 1985 (Audit Exemption) (Amendment) Regulations 1997 and shall come into force on 15th April 1997.

(2) These Regulations apply to the annual accounts of any company for any financial year ending two months or more after the coming into force of the Regulations.

(3) In these Regulations, “the 1985 Act” means the Companies Act 1985.

Amendment of section 249A

2.—(1) Section 249A of the 1985 Act (exemptions from audit for certain categories of small company)(2) is amended as follows.

(2) In subsection (2), for the words “a company”, substitute the words “a company which is a charity and”.

(3) In subsection (3)(b) for “£90,000” substitute “£350,000”.

(4) Insert the following subsection after subsection (3)—

“(3A) In relation to any company which is a charity, subsection (3)(b) shall have effect with the substitution—

(a) for the reference to turnover of a reference to gross income, and

(b) for the reference to £350,000 of a reference to £90,000.”

(1) 1985 c. 6; section 257 was substituted by section 20 of the Companies Act 1989 (c. 40).

(2) Section 249A was inserted by regulation 2 of S.I.1994/1935.

- (5) In subsection (4)—
- (a) for the words “a company” substitute the words “a company which is a charity”, and
 - (b) in paragraph (b)—
 - (i) for the word “turnover” substitute the words “gross income”, and
 - (ii) for “£350,000” substitute “£250,000”.
- (6) Subsection (5) is hereby repealed.
- (7) Insert the following subsection after subsection (6)—
- “(6A) A company is entitled to the exemption conferred by subsection (1) or (2) notwithstanding that it falls within paragraph (a) or (b) of section 250(1).”
- (8) Section 249A shall be deemed, since the commencement of that section, to have had effect as amended by paragraph (7).

Amendment of section 249B

3.—(1) Section 249B of the 1985 Act (cases where exemption from audit not available)(**3**) is amended as follows.

- (2) In subsection (1), for “subsection (1A)” substitute “subsections (1A) to (1C)”.
- (3) Insert the following subsections after subsection (1A)—
- “(1B) A company which, apart from this subsection, would fall within subsection (1)(f) by virtue of its being a parent company or a subsidiary undertaking for any period within a financial year, shall not be treated as so falling if throughout that period it was a member of a group meeting the conditions set out in subsection (1C).
- (1C) The conditions referred to in subsection (1B) are—
- (a) that the group qualifies as a small group, in relation to the financial year within which the period falls, for the purposes of section 249 and is not, and was not at any time within that year, an ineligible group within the meaning of section 248(2),
 - (b) that the group’s aggregate turnover in that year (calculated in accordance with section 249) is not more than £350,000 net (or £420,000 gross), and
 - (c) that the group’s aggregate balance sheet total for that year (calculated in accordance with section 249) is not more than £1.4 million net (or £1.68 million gross).”

Amendment of section 249D

4.—(1) Section 249D of the 1985 Act (definition of reporting accountant)(**4**) is amended as follows.

- (2) In paragraph (d) of subsection (3), for “the Chartered Association of Certified Accountants” substitute “the Association of Chartered Certified Accountants”.

(3) Section 249B was inserted by regulation 2 of S.I. 1994/1935, and amended by regulation 10 of S.I. 1996/189.

(4) Section 249D was inserted by regulation 2 of S.I. 1994/1935, and amended by regulation 2 of S.I. 1995/589 and by regulation 2 of S.I. 1996/3080.

18th March 1997

John M Taylor
Parliamentary Under-Secretary of State for
Corporate and Consumer Affairs,
Department of Trade and Industry

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note does not form part of the Regulations)

1. These Regulations amend provisions in Part VII of the Companies Act 1985 (c. 6) (“the 1985 Act”) concerning the exemption of certain small companies from the requirement to have their annual accounts audited. The amendments are to apply to annual accounts for financial years ending two months or more after the coming into force of the Regulations (regulation 1(2)).

2. Regulation 2(3) increases the turnover limit in section 249A(3)(b) of the 1985 Act which a small company other than a small charitable company must not exceed in respect of a financial year if it is to be exempt from audit from £90,000 to £350,000 (for small charitable companies the gross income limit will remain at £90,000—see regulation 2(4)). As a consequence of this increase, the requirement that small companies falling within section 249A(2) obtain a report from a reporting accountant is repealed except in the case of small charitable companies.

3. Regulation 2(7) inserts a new subsection (6A) into section 249A of the 1985 Act to make clear that companies which are dormant and which fall within paragraph (a) or (b) of section 250(1) of the 1985 Act may claim exemption from audit under either section 249A or section 250. Regulation 2(8) provides that that amendment shall be deemed to have had effect since the commencement of section 249A (on 11th August 1994).

4. Regulation 3(2) and (3) amends section 249B of the 1985 Act. The amendments enable a company which would otherwise be disqualified from claiming exemption from audit under section 249A for a financial year because it was a parent company or subsidiary undertaking for any period in that year, to claim the exemption, provided that the group of which it was a member was a small group satisfying the conditions specified in new section 249B(1C).

5. Regulation 4 amends section 249D(3)(d) of the 1985 Act as a consequence of the Chartered Association of Certified Accountants having changed its name to the Association of Chartered Certified Accountants.