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STATUTORY INSTRUMENTS

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**2004 No. 2947**

**The Companies Act 1985 (International Accounting Standards and Other Accounting Amendments) Regulations 2004**

**PART 3**

Other modifications of provisions relating to accounts

**Exemption for parent companies included in accounts of larger non-EEA group**

4. After section 228 of the 1985 Act insert the following—

**“Exemption for parent companies included in non-EEA group accounts**

**228A.**—(1) A company is exempt from the requirement to prepare group accounts if it is itself a subsidiary undertaking and its parent undertaking is not established under the law of an EEA State, in the following cases –

- (a) where the company is a wholly-owned subsidiary of that parent undertaking;
- (b) where that parent undertaking holds more than 50 per cent of the shares in the company and notice requesting the preparation of group accounts has not been served on the company by shareholders holding in aggregate—
  - (i) more than half of the remaining shares in the company, or
  - (ii) 5 per cent of the total shares in the company.

Such notice must be served not later than six months after the end of the financial year before that to which it relates.

- (2) Exemption is conditional upon compliance with all of the following conditions—
  - (a) that the company and all of its subsidiary undertakings are included in consolidated accounts for a larger group drawn up to the same date, or to an earlier date in the same financial year, by a parent undertaking;
  - (b) that those accounts and, where appropriate, the group’s annual report, are drawn up in accordance with the provisions of the Seventh Directive (83/349/EEC) (where applicable as modified by the provisions of the Bank Accounts Directive (86/635/EEC) or the Insurance Accounts Directive (91/674/EEC)), or in a manner equivalent to consolidated accounts and consolidated annual reports so drawn up;
  - (c) that the consolidated accounts are audited by one or more persons authorised to audit accounts under the law under which the parent undertaking which draws them up is established;
  - (d) that the company discloses in its individual accounts that it is exempt from the obligation to prepare and deliver group accounts;
  - (e) that the company states in its individual accounts the name of the parent undertaking which draws up the group accounts referred to above and—

- (i) if it is incorporated outside Great Britain, the country in which it is incorporated, and
  - (ii) if it is unincorporated, the address of its principal place of business;
  - (f) that the company delivers to the registrar, within the period allowed for delivering its individual accounts, copies of the group accounts and, where appropriate, of the consolidated annual report, together with the auditors' report on them; and
  - (g) subject to section 710B(6) (delivery of certain Welsh documents without a translation) that if any document comprised in accounts and reports delivered in accordance with paragraph (f) is in a language other than English, there is annexed to the copy of that document delivered a translation of it into English, certified in the prescribed manner to be a correct translation.
- (3) The exemption does not apply to a company any of whose securities are admitted to trading on a regulated market of any EEA State within the meaning of Council Directive [93/22/EEC](#) on investment services in the securities field.
- (4) Shares held by directors of a company for the purpose of complying with any share qualification requirement are disregarded in determining for the purposes of subsection (1) (a) whether the company is a wholly-owned subsidiary.
- (5) For the purposes of subsection (1)(b), shares held by a wholly-owned subsidiary of the parent undertaking, or held on behalf of the parent undertaking or a wholly-owned subsidiary, are attributed to the parent undertaking.
- (6) In subsection (3) “securities” includes—
- (a) shares and stock,
  - (b) debentures, including debenture stock, loan stock, bonds, certificates of deposit and other instruments creating or acknowledging indebtedness,
  - (c) warrants or other instruments entitling the holder to subscribe for securities falling within paragraph (a) or (b), and
  - (d) certificates or other instruments which confer—
    - (i) property rights in respect of a security falling within paragraph (a), (b) or (c),
    - (ii) any right to acquire, dispose of, underwrite or convert a security, being a right to which the holder would be entitled if he held any such security to which the certificate or other instrument relates, or
    - (iii) a contractual right (other than an option) to acquire any such security otherwise than by subscription.”

### **Subsidiary undertakings included in consolidation**

5. In section 229 of the 1985 Act (subsidiary undertakings included in the consolidation)(1)—
- (a) in subsection (3)(c), omit from “and the undertaking” to the end, and
  - (b) omit subsection (4).

### **Content of auditors' report**

- 6.—(1) Section 235 of the 1985 Act (auditors' report)(2) is amended as follows.
- (2) For subsection (2) substitute—

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(1) Section 229 was substituted by section 5 of the Companies Act 1989.

(2) Section 235 was substituted by section 9 of the Companies Act 1989, and amended by regulation 4 of S.I.2002/1986.

“(1A) The auditors' report must include–

- (a) an introduction identifying the annual accounts that are the subject of the audit and the financial reporting framework that has been applied in their preparation;
- (b) a description of the scope of the audit identifying the auditing standards in accordance with which the audit was conducted.

(1B) The report must state clearly whether in the auditors' opinion the annual accounts have been properly prepared in accordance with the requirements of this Act (and, where applicable, Article 4 of the IAS Regulation).

(2) The report must state in particular whether the annual accounts give a true and fair view, in accordance with the relevant financial reporting framework–

- (a) in the case of an individual balance sheet, of the state of affairs of the company as at the end of the financial year,
- (b) in the case of an individual profit and loss account, of the profit or loss of the company for the financial year,
- (c) in the case of group accounts, of the state of affairs as at the end of the financial year and of the profit or loss for the financial year, of the undertakings included in the consolidation as a whole, so far as concerns members of the company.

(2A) The auditors' report–

- (a) must be either unqualified or qualified, and
- (b) must include a reference to any matters to which the auditors wish to draw attention by way of emphasis without qualifying the report.”

### **Auditors' report to be dated**

7. In section 236(1) of the 1985 Act (signature of auditors' report)(3), after “signed” insert “and dated”.

### **Requirements for auditors' report published with accounts**

8. In section 240(3) of the 1985 Act (requirements in connection with publication of accounts)(4)–

- (a) at the end of paragraph (c) omit “and”, and
- (b) for paragraph (d) substitute–
  - “(d) whether any such auditors' report–
    - (i) was qualified or unqualified, or included a reference to any matters to which the auditors drew attention by way of emphasis without qualifying the report, or
    - (ii) contained a statement under section 237(2) or (3) (accounting records or returns inadequate, accounts not agreeing with records and returns or failure to obtain necessary information and explanations); and
- (e) whether any report made for the purposes of section 249A(2) was qualified;”.

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(3) Section 236 was substituted by section 9 of the Companies Act 1989.

(4) Section 240 was substituted by section 10 of the Companies Act 1989, and amended by regulation 4 of, and paragraph 1 of Schedule 1 to, S.I. 1994/1935.

### Repeal of 3 month extension for laying and delivering accounts etc

9. Omit subsection (3) of section 244 of the 1985 Act (3 month extension of period allowed for laying and delivering accounts and reports where overseas interests)(5).

### Voluntary revision of annual accounts

10.—(1) Section 245 of the 1985 Act (voluntary revision of defective accounts and reports)(6) is amended as follows.

(2) In subsection (1)—

- (a) after “annual accounts” insert “or summary financial statement”, and
- (b) for “revised report” substitute “revised statement or report”.

(3) In subsection (3), after “annual accounts” insert “or a revised summary financial statement”.

(4) In subsection (4)(a) and (b), for “or report” substitute “, statement or report”.

### Summary financial statements

11.—(1) For the heading before section 251 of the 1985 Act (provision of summary financial statement to shareholders)(7) substitute “*Summary financial statement*”.

(2) In subsection (1) of that section—

- (a) for the words from “A public company” to “listed” substitute “A company”, and
- (b) omit the definitions of “listed” and “the official list”.

### Participating interest no longer required to be subsidiary undertaking

12.—(1) In section 258(4) of the 1985 Act (parent and subsidiary undertakings)(8)—

- (a) omit “ it has a participating interest in the undertaking and”, and
- (b) for paragraph (a) substitute—

“(a) it has the power to exercise, or actually exercises, dominant influence or control over it, or”.

(2) The modification of section 258(4) in paragraph (1) also applies for the purposes of—

- (a) the Building Societies Act 1986(9), and
- (b) the Financial Services and Markets Act 2000(10).

### Disclosures in relation to financial instruments

13.—(1) In Schedule 7 to the 1985 Act (disclosures to be made in directors' report)(11), after paragraph 5 insert—

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(5) Section 244 was substituted by section 11 of the Companies Act 1989.

(6) Section 245 was substituted by section 12 of the Companies Act 1989, and amended by regulation 4 of, and paragraph 2 in Part I of Schedule 1 to, S.I. 1994/1935 and regulation 10(9) of S.I. 2002/1986.

(7) Section 251 was substituted by section 15 of the Companies Act 1989, and amended by regulation 3 of S.I. 1992/3003, by article 14 of S.I. 2000/3373, by article 15 of S.I. 2001/3649 and by regulation 8 of S.I. 2002/1986.

(8) Section 258 was substituted by section 21(1) of the Companies Act 1989.

(9) 1986 c. 53 (as amended by the Companies Act 1989 and the Building Societies Act 1997).

(10) 2000 c. 8.

(11) The paragraph in Schedule 7 previously numbered 5A was repealed by regulation 14 of S.I. 1996/189.

### “Financial instruments

**5A.**—(1) In relation to the use of financial instruments by a company and by its subsidiary undertakings, the directors' report must contain an indication of –

- (a) the financial risk management objectives and policies of the company and its subsidiary undertakings included in the consolidation, including the policy for hedging each major type of forecasted transaction for which hedge accounting is used, and
- (b) the exposure of the company and its subsidiary undertakings included in the consolidation to price risk, credit risk, liquidity risk and cash flow risk,

unless such information is not material for the assessment of the assets, liabilities, financial position and profit or loss of the company and its subsidiary undertakings included in the consolidation.

(2) In sub-paragraph (1) the expressions “hedge accounting”, “price risk”, “credit risk”, “liquidity risk” and “cash flow risk” have the same meaning as they have in Council Directive [78/660/EEC](#) on the annual accounts of certain types of companies, and in Council Directive [83/349/EEC](#) on consolidated accounts, as amended.”(12)

(2) In section 246(4) of the 1985 Act (exemptions for small companies from disclosures in directors' report)(13), after paragraph (b) insert–

- “(ba) paragraph 5A of Schedule 7 (disclosures relating to the use of financial instruments);”.

### Amendment of Schedules to the 1985 Act

**14.**—(1) Schedule 4 to the 1985 Act (form and content of company accounts)(14) is amended in accordance with Schedule 2 to these Regulations.

(2) Schedule 8 to the 1985 Act (form and content of accounts prepared by small companies)(15) is amended in accordance with Schedule 3 to these Regulations.

(3) Schedule 8A to the 1985 Act (form and content of abbreviated accounts of small companies delivered to registrar)(16) is amended in accordance with Schedule 4 to these Regulations.

(4) Schedule 9 to the 1985 Act (form and content of accounts of banking companies and groups)(17) is amended in accordance with Schedule 5 to these Regulations.

(5) Schedule 9A to the 1985 Act (form and content of accounts of insurance companies and groups)(18) is amended in accordance with Schedule 6 to these Regulations.

### Minor and consequential amendments

**15.** Schedule 7 to these Regulations makes minor and consequential amendments to the 1985 Act and to other enactments.

(12) O.J. L222 of 14.8.1978 page 11 and O.J. L193 of 18.7.1983 page 1, as amended in particular by Directives [2001/65/EEC](#) and [2003/51/EEC](#) of the European Parliament and of the Council (O.J. L238 of 27.12.2001, page 28, and O.J. L178 of 17.7.2003, page 16).

(13) Section 246 was substituted by regulation 2(1) of S.I. [1997/220](#), and amended by regulation 6(1) of S.I. [1997/570](#), and by regulation 8(1) of S.I. [2000/1430](#).

(14) Schedule 4 was amended by section 4(2) of, and Schedule 1 to, the Companies Act 1989.

(15) Schedule 8 was substituted by regulation 2(2) of, and Schedule 1 to, S.I. [1997/220](#).

(16) Schedule 8A was inserted by regulation 2(3) of, and Schedule 2 to, S.I. [1997/220](#).

(17) Parts I to III of Schedule 9 were inserted before a re-numbered Schedule 9A by regulation 5(1) of, and Schedule 1 to, S.I. [1991/2705](#). Part IV of Schedule 9 was substituted by section 18(3) and (4) of, and Part IV of Schedule 7 to, the Companies Act 1989.

(18) Parts I and II of Schedule 9 to the Companies Act 1985 were formed into a new Schedule 9A by regulation 5(1) of S.I. [1991/2705](#). A new Schedule 9A was substituted by regulation 4 of, and Schedule 1 to, S.I. [1993/3246](#).

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