
STATUTORY INSTRUMENTS

1990 No. 593 (N.I. 5)

NORTHERN IRELAND

**The Companies
(Northern Ireland) Order 1990**

Made 14th March 1990

Laid before Parliament 3rd April 1990

Coming into operation on days to be appointed under Article 1(1)

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At the Court at Buckingham Palace, the 14th day of March 1990

Present,

The Queen's Most Excellent Majesty in Council

1989 c. 40

Whereas this Order is only made for purposes corresponding to the purposes of provisions of the Companies Act 1989 to which section 214 of that Act applies:

1974 c. 28

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (as modified by section 214 of the said Act of 1989) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Companies (Northern Ireland) Order 1990 and shall come into operation on such day or days as the Head of the Department may by order appoint.

- (2) An order under paragraph (1) may—
- (a) contain such transitional provisions and savings as appear to the Head of the Department to be necessary or expedient;
 - (b) amend any statutory provision which refers to the coming into operation of a provision brought into operation by the order so as to substitute a reference to the actual date on which it comes into operation.

Interpretation

2.—(1) Subject to Articles 44(1) and 51(4) and (5), the Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly. 1954 c. 33 (N.I.)

(2) In this Order—

“the Department” means the Department of Economic Development;

“the 1986 Order” means the Companies (Northern Ireland) Order 1986; 1986 NI 6

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

PART II

COMPANY ACCOUNTS

Introduction

Introduction

3. The provisions of this Part amend Part VIII of the Companies (Northern Ireland) Order 1986 (accounts and audit) by—

- (a) inserting new provisions in place of Articles 229 to 270 of that Order, and
- (b) amending or replacing Schedules 4 to 10 to that Order and inserting new Schedules.

Provisions applying to companies generally

Accounting records

4. The following Articles are inserted in Part VIII of the 1986 Order at the beginning of Chapter I (provisions applying to companies generally)—

“Accounting records

Duty to keep accounting records

229.—(1) Every company shall keep accounting records which are sufficient to show and explain the company’s transactions and are such as to—

- (a) disclose with reasonable accuracy, at any time, the financial position of the company at that time, and
- (b) enable the directors to ensure that any balance sheet and profit and loss account prepared under this Part complies with the requirements of this Order.

(2) The accounting records shall in particular contain—

- (a) entries from day to day of all sums of money received and expended by the company, and the matters in respect of which the receipt and expenditure takes place, and
- (b) a record of the assets and liabilities of the company.

(3) If the company’s business involves dealing in goods, the accounting records shall contain—

- (a) statements of stock held by the company at the end of each financial year of the company,
- (b) all statements of stocktakings from which any such statement of stock as is mentioned in sub-paragraph (a) has been or is to be prepared, and
- (c) except in the case of goods sold by way of ordinary retail trade, statements of all goods sold and purchased, showing the goods and the buyers and sellers in sufficient detail to enable all these to be identified.

(4) A parent company which has a subsidiary undertaking in relation to which the above requirements do not apply shall take reasonable steps to secure that the undertaking keeps such accounting records as to enable the directors of the parent company to ensure that any balance sheet and profit and loss account prepared under this Part complies with the requirements of this Order.

(5) If a company fails to comply with any provision of this Article, every officer of the company who is in default is guilty of an offence unless he shows that he acted honestly and that in the circumstances in which the company’s business was carried on the default was excusable.

(6) A person guilty of an offence under this Article is liable to imprisonment or a fine, or both.

Where and for how long records to be kept

230.—(1) A company’s accounting records shall be kept at its registered office or such other place as the directors think fit, and

shall at all times be open to inspection by the company's officers.

(2) If accounting records are kept at a place outside Northern Ireland, accounts and returns with respect to the business dealt with in the accounting records so kept shall be sent to, and kept at, a place in Northern Ireland, and shall at all times be open to such inspection.

(3) The accounts and returns to be sent to Northern Ireland shall be such as to—

- (a) disclose with reasonable accuracy the financial position of the business in question at intervals of not more than 6 months; and
- (b) enable the directors to ensure that the company's balance sheet and profit and loss account comply with the requirements of this Order.

(4) If a company fails to comply with any provision of paragraphs (1) to (3), every officer of the company who is in default is guilty of an offence, and liable to imprisonment or a fine or both, unless he shows that he acted honestly and that in the circumstances in which the company's business was carried on the default was excusable.

(5) Accounting records which a company is required by Article 229 to keep shall be preserved by it—

- (a) in the case of a private company, for 3 years from the date on which they are made, and
- (b) in the case of a public company, for 6 years from the date on which they are made.

This is subject to any provision contained in rules made under Article 359 of the Insolvency (Northern Ireland) Order 1989 (insolvency rules). 1989 NI 19

(6) An officer of a company is guilty of an offence, and liable to imprisonment or a fine or both, if he fails to take all reasonable steps for securing compliance by the company with paragraph (5) or intentionally causes any default by the company under that paragraph.

(7) Until the coming into operation of Article 359 of the Insolvency (Northern Ireland) Order 1989, paragraph (5) shall have effect with the substitution of "Article 613 (winding-up rules)" for "Article 359 of the Insolvency (Northern Ireland) Order 1989 (insolvency rules)."

A company's financial year and accounting reference periods

5. The following Articles are inserted in Part VIII of the 1986 Order—

"A company's financial year and accounting reference periods

A company's financial year

231.—(1) A company's "financial year" is determined as follows.

(2) Its first financial year begins with the first day of its first accounting reference period and ends with the last day of that period or such other date, not more than 7 days before or after the end of that period, as the directors may determine.

(3) Subsequent financial years begin with the day immediately following the end of the company's previous financial year and end with the last day of its next accounting reference period or such other date, not more than 7 days before or after the end of that period, as the directors may determine.

(4) In relation to an undertaking which is not a company, references in this Order to its financial year are to any period in respect of which a profit and loss account of the undertaking is required to be made up (by its constitution or by the law under which it is established), whether that period is a year or not.

(5) The directors of a parent company shall secure that, except where in their opinion there are good reasons against it, the financial year of each of its subsidiary undertakings coincides with the company's own financial year.

Accounting reference periods and accounting reference date

232.—(1) A company's accounting reference periods are determined according to its accounting reference date.

(2) A company may, at any time before the end of the period of 9 months beginning with the date of its incorporation, by notice in the prescribed form given to the registrar specify its accounting reference date, that is, the date on which its accounting reference period ends in each calendar year.

(3) Failing such notice, a company's accounting reference date is—

(a) in the case of a company incorporated before the coming into operation of Article 5 of the Companies (Northern Ireland) Order 1990, 31st March;

(b) in the case of a company incorporated after the coming into operation of that Article, the last day of the month in which the anniversary of its incorporation falls.

(4) A company's first accounting reference period is the period of more than 6 months, but not more than 18 months, beginning with the date of its incorporation and ending with its accounting reference date.

(5) Its subsequent accounting reference periods are successive periods of 12 months beginning immediately after the end of the

previous accounting reference period and ending with its accounting reference date.

(6) This Article has effect subject to the provisions of Article 233 relating to the alteration of accounting reference dates and the consequences of such alteration.

Alteration of accounting reference date

233.—(1) A company may by notice in the prescribed form given to the registrar specify a new accounting reference date having effect in relation to the company's current accounting reference period and subsequent periods.

(2) A company may by notice in the prescribed form given to the registrar specify a new accounting reference date having effect in relation to the company's previous accounting reference period and subsequent periods if—

(a) the company is a subsidiary undertaking or parent undertaking of another company and the new accounting reference date coincides with the accounting reference date of that other company, or

(b) an administration order under Part III of the Insolvency (Northern Ireland) Order 1989 is in force. 1989 NI 19

A company's "previous accounting reference period" means that immediately preceding its current accounting reference period.

(3) The notice shall state whether the current or previous accounting reference period—

(a) is to be shortened, so as to come to an end on the first occasion on which the new accounting reference date falls or fell after the beginning of the period, or

(b) is to be extended, so as to come to an end on the second occasion on which that date falls or fell after the beginning of the period.

(4) A notice under paragraph (1) stating that the current accounting reference period is to be extended is ineffective, except as mentioned below, if given less than 5 years after the end of an earlier accounting reference period of the company which was extended by virtue of this Article.

This paragraph does not apply—

(a) to a notice given by a company which is a subsidiary undertaking or parent undertaking of another company and the new accounting reference date coincides with that of the other company, or

(b) where an administration order is in force under Part III of the Insolvency (Northern Ireland) Order 1989,

or where the Department directs that it should not apply, which it may do with respect to a notice which has been given or which may be given.

(5) A notice under paragraph (2)(a) may not be given if the period allowed for laying and delivering accounts and reports in relation to the previous accounting reference period has already expired.

1989 NI 19

(6) An accounting reference period may not in any case, unless an administration order is in force under Part III of the Insolvency (Northern Ireland) Order 1989, be extended so as to exceed 18 months and a notice under this Article is ineffective if the current or previous accounting reference period as extended in accordance with the notice would exceed that limit.”.

Individual company accounts

6.—(1) The following Article is inserted in Part VIII of the 1986 Order—

“Annual accounts

Duty to prepare individual company accounts

234.—(1) The directors of every company shall prepare for each financial year of the company—

- (a) a balance sheet as at the last day of the year, and
- (b) a profit and loss account.

Those accounts are referred to in this Part as the company’s ‘individual accounts’.

(2) The balance sheet shall give a true and fair view of the state of affairs of the company as at the end of the financial year; and the profit and loss account shall give a true and fair view of the profit or loss of the company for the financial year.

(3) A company’s individual accounts shall comply with the provisions of Schedule 4 as to the form and content of the balance sheet and profit and loss account and additional information to be provided by way of notes to the accounts.

(4) Where compliance with the provisions of that Schedule, and the other provisions of this Order as to the matters to be included in a company’s individual accounts or in notes to those accounts, would not be sufficient to give a true and fair view, the necessary additional information shall be given in the accounts or in a note to them.

(5) If in special circumstances compliance with any of those provisions is inconsistent with the requirement to give a true and fair view, the directors shall depart from that provision to the extent necessary to give a true and fair view.

Particulars of any such departure, the reasons for it and its effect shall be given in a note to the accounts.”.

(2) Schedule 4 to the 1986 Order (form and content of company accounts) is amended in accordance with Schedule 1 to this Order.

Group accounts

7.—(1) The following Article is inserted in Part VIII of the 1986 Order—

“Duty to prepare group accounts

235.—(1) If at the end of a financial year a company is a parent company the directors shall, as well as preparing individual accounts for the year, prepare group accounts.

(2) Group accounts shall be consolidated accounts comprising—

(a) a consolidated balance sheet dealing with the state of affairs of the parent company and its subsidiary undertakings, and

(b) a consolidated profit and loss account dealing with the profit or loss of the parent company and its subsidiary undertakings.

(3) The accounts shall give a true and fair view of the state of affairs as at the end of the financial year, and 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.

(4) A company’s group accounts shall comply with the provisions of Schedule 4A as to the form and content of the consolidated balance sheet and consolidated profit and loss account and additional information to be provided by way of notes to the accounts.

(5) Where compliance with the provisions of that Schedule, and the other provisions of this Order, as to the matters to be included in a company’s group accounts or in notes to those accounts, would not be sufficient to give a true and fair view, the necessary additional information shall be given in the accounts or in a note to them.

(6) If in special circumstances compliance with any of those provisions is inconsistent with the requirement to give a true and fair view, the directors shall depart from that provision to the extent necessary to give a true and fair view.

Particulars of any such departure, the reasons for it and its effect shall be given in a note to the accounts.”.

(2) Schedule 2 to this Order (form and content of group accounts) is inserted after Schedule 4 to the 1986 Order, as Schedule 4A.

(3) The following Articles are inserted in Part VIII of the 1986 Order—

“Exemption for parent companies included in accounts of larger group

236.—(1) A company is exempt from the requirement to prepare group accounts if it is itself a subsidiary undertaking and its immediate parent undertaking is established under the law of a member State of the European Economic Community, 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 6 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 is 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 established under the law of a member State of the European Economic Community;
- (b) that those accounts are drawn up and audited, and that parent undertaking’s annual report is drawn up, according to that law, in accordance with the provisions of the Seventh Directive (83/349/EEC);
- (c) that the company discloses in its individual accounts that it is exempt from the obligation to prepare and deliver group accounts;
- (d) 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 Northern Ireland, the country in which it is incorporated, and
 - (ii) if it is unincorporated, the address of its principal place of business;
- (e) that the company delivers to the registrar, within the period allowed for delivering its individual accounts, copies of those group accounts and of the parent undertaking’s annual report, together with the auditors’ report on them; and
- (f) that if any document comprised in accounts and reports delivered in accordance with sub-paragraph (e) 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 listed on a stock exchange in any member State of the European Economic Community.

(4) Shares held by directors of a company for the purpose of complying with any share qualification requirement shall be disregarded in determining for the purposes of paragraph (1)(a) whether the company is a wholly-owned subsidiary.

(5) For the purposes of paragraph (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, shall be attributed to the parent undertaking.

(6) In paragraph (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 sub-paragraph (a) or (b), and
- (d) certificates or other instruments which confer—
 - (i) property rights in respect of a security falling within sub-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 the consolidation

237.—(1) Subject to the exceptions authorised or required by this Article, all the subsidiary undertakings of the parent company shall be included in the consolidation.

(2) A subsidiary undertaking may be excluded from consolidation if its inclusion is not material for the purpose of giving a true and fair view; but two or more undertakings may be excluded only if they are not material taken together.

(3) In addition, a subsidiary undertaking may be excluded from consolidation where—

- (a) severe long-term restrictions substantially hinder the exercise of the rights of the parent company over the assets or management of that undertaking, or
- (b) the information necessary for the preparation of group accounts cannot be obtained without disproportionate expense or undue delay, or
- (c) the interest of the parent company is held exclusively with a view to subsequent resale and the undertaking has not previously been included in consolidated group accounts prepared by the parent company.

The reference in sub-paragraph (a) to the rights of the parent company and the reference in sub-paragraph (c) to the interest of the parent company are, respectively, to rights and interests held by or attributed to the company for the purposes of Article 266 (definition of "parent undertaking") in the absence of which it would not be the parent company.

(4) Where the activities of one or more subsidiary undertakings are so different from those of other undertakings to be included in the consolidation that their inclusion would be incompatible with the obligation to give a true and fair view, those undertakings shall be excluded from consolidation.

This paragraph does not apply merely because some of the undertakings are industrial, some commercial and some provide services, or because they carry on industrial or commercial activities involving different products or provide different services.

(5) Where all the subsidiary undertakings of a parent company fall within the above exclusions, no group accounts are required."

(4) The following Article is inserted in Part VIII of the 1986 Order—

"Treatment of individual profit and loss account where group accounts prepared

238.—(1) The following provisions apply with respect to the individual profit and loss account of a parent company where—

- (a) the company is required to prepare and does prepare group accounts in accordance with this Order, and
- (b) the notes to the company's individual balance sheet show the company's profit or loss for the financial year determined in accordance with this Order.

(2) The profit and loss account need not contain the information specified in paragraphs 52 to 57 of Schedule 4 (information supplementing the profit and loss account).

(3) The profit and loss account must be approved in accordance with Article 241(1) (approval by board of directors) but may be omitted from the company's annual accounts for the purposes of the other provisions below in this Chapter.

(4) The exemption conferred by this Article is conditional upon its being disclosed in the company's annual accounts that the exemption applies."

Additional disclosure required in notes to accounts

8.—(1) The following Article is inserted in Part VIII of the 1986 Order—

"Disclosure required in notes to accounts: related undertakings

239.—(1) The information specified in Schedule 5 shall be given in notes to a company's annual accounts.

(2) Where the company is not required to prepare group accounts, the information specified in Part I of that Schedule shall be given; and where the company is required to prepare group accounts, the information specified in Part II of that Schedule shall be given.

(3) The information required by Schedule 5 need not be disclosed with respect to an undertaking which—

(a) is established under the law of a country outside the United Kingdom, or

(b) carries on business outside the United Kingdom,

if in the opinion of the directors of the company the disclosure would be seriously prejudicial to the business of that undertaking, or to the business of the company or any of its subsidiary undertakings, and the Department agrees that the information need not be disclosed.

This paragraph does not apply in relation to the information required under paragraph 5(2), 6 or 20 of that Schedule.

(4) Where advantage is taken of paragraph (3), that fact shall be stated in a note to the company's annual accounts.

(5) If the directors of the company are of the opinion that the number of undertakings in respect of which the company is required to disclose information under any provision of Schedule 5 is such that compliance with that provision would result in information of excessive length being given, the information need only be given in respect of—

(a) the undertakings whose results or financial position, in the opinion of the directors, principally affected the figures shown in the company's annual accounts, and

(b) undertakings excluded from consolidation under Article 237(3) or (4).

This paragraph does not apply in relation to the information required under paragraph 10 or 29 of that Schedule.

(6) If advantage is taken of paragraph (5)—

- (a) there shall be included in the notes to the company's annual accounts a statement that the information is given only with respect to such undertakings as are mentioned in that paragraph, and
- (b) the full information (both that which is disclosed in the notes to the accounts and that which is not) shall be annexed to the company's next annual return.

For this purpose the "next annual return" means that next delivered to the registrar after the accounts in question have been approved under Article 241.

(7) If a company fails to comply with paragraph (6)(b), the company and every officer of it who is in default is liable to a fine and, for continued contravention, to a daily default fine."

(2) Schedule 3 to this Order (disclosure of information: related undertakings) is substituted for Schedule 5 to the 1986 Order.

(3) The following Article is inserted in Part VIII of the 1986 Order—

"Disclosure required in notes to accounts: emoluments and other benefits of directors and others

240.—(1) The information specified in Schedule 6 shall be given in notes to a company's annual accounts.

(2) In that Schedule—

Part I relates to the emoluments of directors (including emoluments waived), pensions of directors and past directors, compensation for loss of office to directors and past directors and sums paid to third parties in respect of directors' services,

Part II relates to loans, quasi-loans and other dealings in favour of directors and connected persons, and

Part III relates to transactions, arrangements and agreements made by the company or a subsidiary undertaking for officers of the company other than directors.

(3) It is the duty of any director of a company, and any person who is or has at any time in the preceding 5 years been an officer of the company, to give notice to the company of such matters relating to himself as may be necessary for the purposes of Part I of Schedule 6.

(4) A person who makes default in complying with paragraph (3) commits an offence and is liable to a fine."

(4) Schedule 6 to the 1986 Order is amended in accordance with Schedule 4 to this Order.

Approval and signing of accounts

9. The following Article is inserted in Part VIII of the 1986 Order—

“Approval and signing of accounts

Approval and signing of accounts

241.—(1) A company's annual accounts shall be approved by the board of directors and signed on behalf of the board by a director of the company.

(2) The signature shall be on the company's balance sheet.

(3) Every copy of the balance sheet which is laid before the company in general meeting, or which is otherwise circulated, published or issued, shall state the name of the person who signed the balance sheet on behalf of the board.

(4) The copy of the company's balance sheet which is delivered to the registrar shall be signed on behalf of the board by a director of the company.

(5) If annual accounts are approved which do not comply with the requirements of this Order, every director of the company who is party to their approval and who knows that they do not comply or is reckless as to whether they comply is guilty of an offence and liable to a fine.

For this purpose every director of the company at the time the accounts are approved shall be taken to be a party to their approval unless he shows that he took all reasonable steps to prevent their being approved.

(6) If a copy of the balance sheet—

(a) is laid before the company, or otherwise circulated, published or issued, without the balance sheet having been signed as required by this Article 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 Article,

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

Directors' report

10.—(1) The following Articles are inserted in Part VIII of the 1986 Order—

“Directors’ report

Duty to prepare directors’ report

242.—(1) The directors of a company shall for each financial year prepare a report—

- (a) containing a fair review of the development of the business of the company and its subsidiary undertakings during the financial year and of their position at the end of it, and
- (b) stating the amount (if any) which they recommend should be paid as dividend and the amount (if any) which they propose to carry to reserves.

(2) The report shall state the names of the persons who, at any time during the financial year, were directors of the company, and the principal activities of the company and its subsidiary undertakings in the course of the year and any significant change in those activities in the year.

(3) The report shall also comply with Schedule 7 as regards the disclosure of the matters mentioned there.

(4) In Schedule 7—

Part I relates to matters of a general nature, including changes in asset values, directors’ shareholdings and other interests and contributions for political and charitable purposes,

Part II relates to the acquisition by a company of its own shares or a charge on them,

Part III relates to the employment, training and advancement of disabled persons,

Part IV relates to the health, safety and welfare at work of the company’s employees, and

Part V relates to the involvement of employees in the affairs, policy and performance of the company.

(5) In the case of any failure to comply with the provisions of this Part as to the preparation of a directors’ report and the contents of the report, every person who was a director of the company immediately before the end of the period for laying and delivering accounts and reports for the financial year in question is guilty of an offence and liable to a fine.

(6) In proceedings against a person for an offence under this Article it is a defence for him to prove that he took all reasonable steps for securing compliance with the requirements in question.

Approval and signing of directors’ report

242A.—(1) The directors’ report shall 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 directors' report which is laid before the company in general meeting, or which is otherwise circulated, published or issued, shall state the name of the person who signed it on behalf of the board.

(3) The copy of the directors' report which is delivered to the registrar shall be signed on behalf of the board by a director or the secretary of the company.

(4) If a copy of the directors' report—

(a) is laid before the company, or otherwise circulated, published or issued, without the report having been signed as required by this Article 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 Article,

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

(2) Schedule 7 to the 1986 Order (matters to be included in directors' report) is amended in accordance with Schedule 5 to this Order.

Auditors' report

11. The following Articles are inserted in Part VIII of the 1986 Order—

"Auditors' report

Auditors' report

243.—(1) A company's auditors shall make a report to the company's members on all annual accounts of the company of which copies are to be laid before the company in general meeting during their tenure of office.

(2) The auditors' report shall state whether in the auditors' opinion the annual accounts have been properly prepared in accordance with this Order, and in particular whether a true and fair view is given—

(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 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.

(3) The auditors shall consider whether the information given in the directors' report for the financial year for which the annual accounts are prepared is consistent with those accounts; and if

they are of opinion that it is not they shall state that fact in their report.

Signature of auditors' report

244.—(1) The auditors' report shall state the names of the auditors and be signed by them.

(2) Every copy of the auditors' report which is laid before the company in general meeting, or which is otherwise circulated, published or issued, shall state the names of the auditors.

(3) The copy of the auditors' report which is delivered to the registrar shall state the names of the auditors and be signed by them.

(4) If a copy of the auditors' report—

(a) is laid before the company, or otherwise circulated, published or issued, without the required statement of the auditors' names, or

(b) is delivered to the registrar without the required statement of the auditors' names or without being signed as required by this Article,

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

(5) References in this Article to signature by the auditors are, where the office of auditor is held by a body corporate or partnership, to signature in the name of the body corporate or partnership by a person authorised to sign on its behalf.

Duties of auditors

245.—(1) A company's auditors shall, in preparing their report, carry out such investigations as will enable them to form an opinion as to—

(a) whether proper accounting records have been kept by the company and proper returns adequate for their audit have been received from branches not visited by them, and

(b) whether the company's individual accounts are in agreement with the accounting records and returns.

(2) If the auditors are of opinion that proper accounting records have not been kept, or that proper returns adequate for their audit have not been received from branches not visited by them, or if the company's individual accounts are not in agreement with the accounting records and returns, the auditors shall state that fact in their report.

(3) If the auditors fail to obtain all the information and explanations which, to the best of their knowledge and belief, are necessary for the purposes of their audit, they shall state that fact in their report.

(4) If the requirements of Schedule 6 (disclosure of information: emoluments and other benefits of directors and others) are not complied with in the annual accounts, the auditors shall include in their report, so far as they are reasonably able to do so, a statement giving the required particulars.”.

Publication of accounts and reports

12. The following Articles are inserted in Part VIII of the 1986 Order—

“Publication of accounts and reports

Persons entitled to receive copies of accounts and reports

246.—(1) A copy of the company’s annual accounts, together with a copy of the directors’ report for that financial year and of the auditors’ report on those accounts, shall be sent to—

- (a) every member of the company,
- (b) every holder of the company’s debentures, and
- (c) every person who is entitled to receive notice of general meetings,

not less than 21 days before the date of the meeting at which copies of those documents are to be laid in accordance with Article 249.

(2) Copies need not be sent—

- (a) to a person who is not entitled to receive notices of general meetings and of whose address the company is unaware, or
- (b) to more than one of the joint holders of shares or debentures none of whom is entitled to receive such notices, or
- (c) in the case of joint holders of shares or debentures some of whom are, and some not, entitled to receive such notices, to those who are not so entitled.

(3) In the case of a company not having a share capital, copies need not be sent to anyone who is not entitled to receive notices of general meetings of the company.

(4) If copies are sent less than 21 days before the date of the meeting, they shall, notwithstanding that fact, be deemed to have been duly sent if it is so agreed by all the members entitled to attend and vote at the meeting.

(5) If default is made in complying with this Article, the company and every officer of it who is in default is guilty of an offence and liable to a fine.

(6) Where copies are sent out under this Article over a period of days, references elsewhere in this Order to the day on which copies are sent out shall be construed as references to the last day of that period.

Right to demand copies of accounts and reports

247.—(1) Any member of a company and any holder of a company's debentures is entitled to be furnished, on demand and without charge, with a copy of the company's last annual accounts and directors' report and a copy of the auditors' report on those accounts.

(2) The entitlement under this Article is to a single copy of those documents, but that is in addition to any copy to which a person may be entitled under Article 246.

(3) If a demand under this Article is not complied with within 7 days, the company and every officer of it who is in default is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.

(4) If in proceedings for such an offence the issue arises whether a person had already been furnished with a copy of the relevant document under this Article, it is for the defendant to prove that he had.

Requirements in connection with publication of accounts

248.—(1) If a company publishes any of its statutory accounts, they must be accompanied by the relevant auditors' report under Article 243.

(2) A company which is required to prepare group accounts for a financial year shall not publish its statutory individual accounts for that year without also publishing with them its statutory group accounts.

(3) If a company publishes non-statutory accounts, it shall publish with them a statement indicating—

- (a) that they are not the company's statutory accounts,
- (b) whether statutory accounts dealing with any financial year with which the non-statutory accounts purport to deal have been delivered to the registrar,
- (c) whether the company's auditors have made a report under Article 243 on the statutory accounts for any such financial year, and
- (d) whether any report so made was qualified or contained a statement under Article 245(2) or (3) (accounting records or returns inadequate, accounts not agreeing with records and returns or failure to obtain necessary information and explanations);

and it shall not publish with the non-statutory accounts any auditors' report under Article 243.

(4) For the purposes of this Article a company shall be regarded as publishing a document if it publishes, issues or circulates it or otherwise makes it available for public inspection in a manner

calculated to invite members of the public generally, or any class of members of the public, to read it.

(5) References in this Article to a company's statutory accounts are to its individual or group accounts for a financial year as required to be delivered to the registrar under Article 250; and references to the publication by a company of "non-statutory accounts" are to the publication of—

(a) any balance sheet or profit and loss account relating to, or purporting to deal with, a financial year of the company, or

(b) an account in any form purporting to be a balance sheet or profit and loss account for the group consisting of the company and its subsidiary undertakings relating to, or purporting to deal with, a financial year of the company, otherwise than as part of the company's statutory accounts.

(6) A company which contravenes any provision of this Article, and any officer of it who is in default, is guilty of an offence and liable to a fine."

Laying and delivering of accounts and reports

13. The following Articles are inserted in Part VIII of the 1986 Order—

"Laying and delivering of accounts and reports

Accounts and reports to be laid before company in general meeting

249.—(1) The directors of a company shall in respect of each financial year lay before the company in general meeting copies of the company's annual accounts, the directors' report and the auditors' report on those accounts.

(2) If the requirements of paragraph (1) are not complied with before the end of the period allowed for laying and delivering accounts and reports, every person who immediately before the end of that period was a director of the company is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.

(3) It is a defence for a person charged with such an offence to prove that he took all reasonable steps for securing that those requirements would be complied with before the end of that period.

(4) It is not a defence to prove that the documents in question were not in fact prepared as required by this Part.

Accounts and reports to be delivered to the registrar

250.—(1) The directors of a company shall in respect of each financial year deliver to the registrar a copy of the company's

annual accounts together with a copy of the directors' report for that year and a copy of the auditors' report on those accounts.

If any document comprised in those accounts or reports is in a language other than English, the directors shall annex to the copy of that document delivered a translation of it into English, certified in the prescribed manner to be a correct translation.

(2) If the requirements of paragraph (1) are not complied with before the end of the period allowed for laying and delivering accounts and reports, every person who immediately before the end of that period was a director of the company is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.

(3) Further, if the directors of the company fail to make good the default within 14 days after the service of a notice on them requiring compliance, the court may on the application of any member or creditor of the company or of the registrar, make an order directing the directors (or any of them) to make good the default within such time as may be specified in the order.

The court's order may provide that all costs of and incidental to the application shall be borne by the directors.

(4) It is a defence for a person charged with an offence under this Article to prove that he took all reasonable steps for securing that the requirements of paragraph (1) would be complied with before the end of the period allowed for laying and delivering accounts and reports.

(5) It is not a defence in any proceedings under this Article to prove that the documents in question were not in fact prepared as required by this Part.

Civil penalty for failure to deliver accounts

250A.—(1) Where the requirements of Article 250(1) are not complied with before the end of the period allowed for laying and delivering accounts and reports, the company is liable to a civil penalty.

This is in addition to any liability of the directors under Article 250.

(2) The amount of the penalty is determined by reference to the length of the period between the end of the period allowed for laying and delivering accounts and reports and the day on which the requirements are complied with, and whether the company is a public or private company, as follows:—

<i>Length of period</i>	<i>Public company</i>	<i>Private company</i>
Not more than 3 months.	£500	£100
More than 3 months but not more than 6 months.	£1,000	£250
More than 6 months but not more than 12 months.	£2,000	£500
More than 12 months.	£5,000	£1,000

(3) The penalty may be recovered by the registrar and shall be paid by him into the Consolidated Fund.

(4) It is not a defence in proceedings under this Article to prove that the documents in question were not in fact prepared as required by this Part.

Accounts of subsidiary undertakings to be appended in certain cases

251.—(1) The following provisions apply where at the end of the financial year a parent company has as a subsidiary undertaking—

(a) a body corporate incorporated outside Northern Ireland which does not have an established place of business in Northern Ireland, or

(b) an unincorporated undertaking,

which is excluded from consolidation in accordance with Article 237(4) (undertaking with activities different from the undertakings included in the consolidation).

(2) There shall be appended to the copy of the company's annual accounts delivered to the registrar in accordance with Article 250 a copy of the undertaking's latest individual accounts and, if it is a parent undertaking, its latest group accounts.

If the accounts appended are required by law to be audited, a copy of the auditors' report shall also be appended.

(3) The accounts must be for a period ending not more than 12 months before the end of the financial year for which the parent company's accounts are made up.

(4) If any document required to be appended is in a language other than English, the directors shall annex to the copy of that document delivered a translation of it into English, certified in the prescribed manner to be a correct translation.

(5) The above requirements are subject to the following qualifications—

(a) an undertaking is not required to prepare for the purposes of this Article accounts which would not otherwise be prepared, and if no accounts satisfying the above requirements are prepared none need be appended;

- (b) a document need not be appended if it would not otherwise be required to be published, or made available for public inspection, anywhere in the world, but in that case the reason for not appending it shall be stated in a note to the company's accounts;
- (c) where an undertaking and all its subsidiary undertakings are excluded from consolidation in accordance with Article 237(4), the accounts of such of the subsidiary undertakings of that undertaking as are included in its consolidated group accounts need not be appended.

(6) Paragraphs (2) to (4) of Article 250 (penalties, &c. in case of default) apply in relation to the requirements of this Article as they apply in relation to the requirements of paragraph (1) of that Article.

Period allowed for laying and delivering accounts and reports

252.—(1) The period allowed for laying and delivering accounts and reports is—

- (a) for a private company, 10 months after the end of the relevant accounting reference period, and
- (b) for a public company, 7 months after the end of that period.

This is subject to the following provisions of this Article.

(2) If the relevant accounting reference period is the company's first and is a period of more than 12 months, the period allowed is—

- (a) 10 months or 7 months, as the case may be, from the first anniversary of the incorporation of the company, or
- (b) 3 months from the end of the accounting reference period, whichever last expires.

(3) Where a company carries on business, or has interests, outside the United Kingdom, the Channel Islands and the Isle of Man, the directors may, in respect of any financial year, give to the registrar before the end of the period allowed by paragraph (1) or (2) a notice in the prescribed form—

- (a) stating that the company so carries on business or has such interests, and
- (b) claiming a 3 month extension of the period allowed for laying and delivering accounts and reports;

and upon such a notice being given the period is extended accordingly.

(4) If the relevant accounting period is treated as shortened by virtue of a notice given by the company under Article 233 (alteration of accounting reference date), the period allowed for laying and delivering accounts is that applicable in accordance with the

above provisions or 3 months from the date of the notice under that Article, whichever last expires.

(5) If for any special reason the Department thinks fit it may, on an application made before the expiry of the period otherwise allowed, by notice in writing to a company extend that period by such further period as may be specified in the notice.

(6) In this Article "the relevant accounting reference period" means the accounting reference period by reference to which the financial year for the accounts in question was determined."

Remedies for failure to comply with accounting requirements

14. The following Articles are inserted in Part VIII of the 1986 Order—

"Revision of defective accounts and reports

Voluntary revision of annual accounts or directors' report

253.—(1) If it appears to the directors of a company that any annual accounts of the company, or any directors' report, did not comply with the requirements of this Order, they may prepare revised accounts or a revised report.

(2) Where copies of the previous accounts or report have been laid before the company in general meeting or delivered to the registrar, the revisions shall be confined to—

- (a) the correction of those respects in which the previous accounts or report did not comply with the requirements of this Order, and
- (b) the making of any necessary consequential alterations.

(3) The Department may make provision by regulations as to the application of the provisions of this Order in relation to revised annual accounts or a revised directors' report.

(4) The regulations may, in particular—

- (a) make different provision according to whether the previous accounts or report are replaced or are supplemented by a document indicating the corrections to be made;
- (b) make provision with respect to the functions of the company's auditors in relation to the revised accounts or report;
- (c) require the directors to take such steps as may be specified in the regulations where the previous accounts or report have been—
 - (i) sent out to members and others under Article 246(1),
 - (ii) laid before the company in general meeting, or
 - (iii) delivered to the registrar,

or where a summary financial statement based on the previous accounts or report has been sent to members under Article 259;

- (d) apply the provisions of this Order (including those creating criminal offences) subject to such additions, exceptions and modifications as are specified in the regulations.

Department's notice in respect of annual accounts

253A.—(1) Where copies of a company's annual accounts have been sent out under Article 246, or a copy of a company's annual accounts has been laid before the company in general meeting or delivered to the registrar, and it appears to the Department that there is, or may be, a question whether the accounts comply with the requirements of this Order, it may give notice to the directors of the company indicating the respects in which it appears to the Department that such a question arises, or may arise.

(2) The notice shall specify a period of not less than one month for the directors to give the Department an explanation of the accounts or prepare revised accounts.

(3) If at the end of the specified period, or such longer period as it may allow, it appears to the Department that no satisfactory explanation of the accounts has been given and that the accounts have not been revised so as to comply with the requirements of this Order, it may if it thinks fit apply to the court.

(4) The provisions of this Article apply equally to revised annual accounts, in which case the references to revised accounts shall be read as references to further revised accounts.

Application to court in respect of defective accounts

253B.—(1) An application may be made to the court—

(a) by the Department, after having complied with Article 253A, or

(b) by a person authorised by the Department for the purposes of this Article,

for a declaration that the annual accounts of a company do not comply with the requirements of this Order and for an order requiring the directors of the company to prepare revised accounts.

(2) Notice of the application, together with a general statement of the matters at issue in the proceedings, shall be given by the applicant to the registrar for registration.

(3) If the court orders the preparation of revised accounts, it may give directions with respect to—

(a) the auditing of the accounts,

- (b) the revision of any directors' report or summary financial statement, and
- (c) the taking of steps by the directors to bring the making of the order to the notice of persons likely to rely on the previous accounts,

and such other matters as the court thinks fit.

(4) If the court finds that the accounts did not comply with the requirements of this Order it may order that all or part of—

- (a) the costs of and incidental to the application, and
- (b) any reasonable expenses incurred by the company in connection with or in consequence of the preparation of revised accounts,

shall be borne by such of the directors as were party to the approval of the defective accounts.

For this purpose every director of the company at the time the accounts were approved shall be taken to have been a party to their approval unless he shows that he took all reasonable steps to prevent their being approved.

(5) Where the court makes an order under paragraph (4) it shall have regard to whether the directors party to the approval of the defective accounts knew or ought to have known that the accounts did not comply with the requirements of this Order, and it may exclude one or more directors from the order or order the payment of different amounts by different directors.

(6) On the conclusion of proceedings on an application under this Article, the applicant shall give to the registrar for registration an office copy of the court order or, as the case may be, notice that the application has failed or been withdrawn.

(7) The provisions of this Article apply equally to revised annual accounts, in which case the references to revised accounts shall be read as references to further revised accounts.

Other persons authorised to apply to court

253C.—(1) The Department may authorise for the purposes of Article 253B any person appearing to it—

- (a) to have an interest in, and to have satisfactory procedures directed to securing, compliance by companies with the accounting requirements of this Order,
- (b) to have satisfactory procedures for receiving and investigating complaints about the annual accounts of companies, and
- (c) otherwise to be a fit and proper person to be authorised.

(2) A person may be authorised generally or in respect of particular classes of case, and different persons may be authorised in respect of different classes of case.

(3) The Department may refuse to authorise a person if it considers that its authorisation is unnecessary having regard to the fact that there are one or more other persons who have been or are likely to be authorised.

(4) Authorisation shall be by order made subject to negative resolution.

(5) Where authorisation is revoked, the revoking order may make such provision as the Department thinks fit with respect to pending proceedings.

(6) Neither a person authorised under this Article, nor any officer, servant or member of the governing body of such a person, shall be liable in damages for anything done or purporting to be done for the purposes of or in connection with—

- (a) the taking of steps to discover whether there are grounds for an application to the court,
- (b) the determination whether or not to make such an application, or
- (c) the publication of its reasons for any such decision, unless the act or omission is shown to have been in bad faith.”.

Exemptions and special provisions

Small and medium-sized companies and groups

15.—(1) The following Articles are inserted in Part VIII of the 1986 Order, as the beginning of a Chapter II—

“CHAPTER II

EXEMPTIONS, EXCEPTIONS AND SPECIAL PROVISIONS

Small and medium-sized companies and groups

Exemptions for small and medium-sized companies

254.—(1) A company which qualifies as a small or medium-sized company in relation to a financial year—

- (a) is exempt from the requirements of paragraph 36A of Schedule 4 (disclosure with respect to compliance with accounting standards), and
- (b) is entitled to the exemptions provided by Schedule 8 with respect to the delivery to the registrar under Article 250 of individual accounts and other documents for that financial year.

(2) In Schedule 8—

Part I relates to small companies,

Part II relates to medium-sized companies, and

Part III contains supplementary provisions.

(3) A company is not entitled to the exemptions mentioned in paragraph (1) if it is, or was at any time within the financial year to which the accounts relate—

- (a) a public company,
- (b) a banking or insurance company, or
- (c) an authorised person under the Financial Services Act 1986, 1986 c. 60

or if it is or was at any time during that year a member of an ineligible group.

(4) A group is ineligible if any of its members is—

- (a) a public company or a body corporate which (not being a company) has power under its constitution to offer its shares or debentures to the public and may lawfully exercise that power,
- (b) an authorised institution under the Banking Act 1987, 1987 c. 22
- (c) an insurance company to which Part II of the Insurance Companies Act 1982 applies, or 1982 c. 50
- (d) an authorised person under the Financial Services Act 1986.

(5) A parent company shall not be treated as qualifying as a small company in relation to a financial year unless the group headed by it qualifies as a small group, and shall not be treated as qualifying as a medium-sized company in relation to a financial year unless that group qualifies as a medium-sized group (see Article 257).

Qualification of company as small or medium-sized

255.—(1) A company qualifies as small or medium-sized in relation to a financial year if the qualifying conditions are met—

- (a) in the case of the company's first financial year, in that year, and
- (b) in the case of any subsequent financial year, in that year and the preceding year.

(2) A company shall be treated as qualifying as small or medium-sized in relation to a financial year—

- (a) if it so qualified in relation to the previous financial year under paragraph (1); or
- (b) if it was treated as so qualifying in relation to the previous year by virtue of sub-paragraph (a) and the qualifying conditions are met in the year in question.

(3) The qualifying conditions are met by a company in a year in which it satisfies two or more of the following requirements—

Small company

- | | |
|------------------------|--------------------------|
| 1. Turnover | Not more than £2 million |
| 2. Balance sheet total | Not more than £975,000 |
| 3. Number of employees | Not more than 50 |

Medium-sized company

- | | |
|------------------------|----------------------------|
| 1. Turnover | Not more than £8 million |
| 2. Balance sheet total | Not more than £3.9 million |
| 3. Number of employees | Not more than 250. |

(4) For a period which is a company's financial year but not in fact a year the maximum figures for turnover shall be proportionately adjusted.

(5) The balance sheet total means—

(a) where in the company's accounts Format 1 of the balance sheet formats set out in Part I of Schedule 4 is adopted, the aggregate of the amounts shown in the balance sheet under the headings corresponding to items A to D in that Format, and

(b) where Format 2 is adopted, the aggregate of the amounts shown under the general heading "Assets".

(6) The number of employees means the average number of persons employed by the company in the year (determined on a weekly basis).

That number shall be determined by applying the method of calculation prescribed by paragraph 56(2) and (3) of Schedule 4 for determining the corresponding number required to be stated in a note to the company's accounts."

(2) Schedule 6 to this Order is substituted for Schedule 8 to the 1986 Order.

(3) The following Articles are inserted in Part VIII of the 1986 Order—

"Exemption for small and medium-sized groups

256.—(1) A parent company need not prepare group accounts for a financial year in relation to which the group headed by that company qualifies as a small or medium-sized group and is not an ineligible group.

(2) A group is ineligible if any of its members is—

(a) a public company or a body corporate which (not being a company) has power under its constitution to offer its shares or debentures to the public and may lawfully exercise that power,

(b) an authorised institution under the Banking Act 1987,

(c) an insurance company to which Part II of the Insurance Companies Act 1982 applies, or 1982 c. 50

(d) an authorised person under the Financial Services Act 1986. 1986 c. 60

(3) If the directors of a company propose to take advantage of the exemption conferred by this Article, it is the auditors' duty to provide them with a report stating whether in their opinion the company is entitled to the exemption.

(4) The exemption does not apply unless—

(a) the auditors' report states that in their opinion the company is so entitled, and

(b) that report is attached to the individual accounts of the company.

Qualification of group as small or medium-sized

257.—(1) A group qualifies as small or medium-sized in relation to a financial year if the qualifying conditions are met—

(a) in the case of the parent company's first financial year, in that year, and

(b) in the case of any subsequent financial year, in that year and the preceding year.

(2) A group shall be treated as qualifying as small or medium-sized in relation to a financial year—

(a) if it so qualified in relation to the previous financial year under paragraph (1); or

(b) if it was treated as so qualifying in relation to the previous year by virtue of sub-paragraph (a) and the qualifying conditions are met in the year in question.

(3) The qualifying conditions are met by a group in a year in which it satisfies two or more of the following requirements—

Small group

- | | |
|----------------------------------|--|
| 1. Aggregate turnover | Not more than £2 million net (or £2.4 million gross) |
| 2. Aggregate balance sheet total | Not more than £1 million net (or £1.2 million gross) |
| 3. Aggregate number of employees | Not more than 50 |

Medium-sized group

- | | |
|----------------------------------|--|
| 1. Aggregate turnover | Not more than £8 million net (or £9.6 million gross) |
| 2. Aggregate balance sheet total | Not more than £3.9 million net (or £4.7 million gross) |
| 3. Aggregate number of employees | Not more than 250 |

(4) The aggregate figures shall be ascertained by aggregating the

relevant figures determined in accordance with Article 255 for each member of the group.

In relation to the aggregate figures for turnover and balance sheet total, "net" means with the set-offs and other adjustments required by Schedule 4A in the case of group accounts and "gross" means without those set-offs and other adjustments; and a company may satisfy the relevant requirement on the basis of either the net or the gross figure.

(5) The figures for each subsidiary undertaking shall be those included in its accounts for the relevant financial year, that is—

- (a) if its financial year ends with that of the parent company, that financial year, and
- (b) if not, its financial year ending last before the end of the financial year of the parent company.

(6) If those figures cannot be obtained without disproportionate expense or undue delay, the latest available figures shall be taken."

Dormant companies

16. The following Article is inserted in Part VIII of the 1986 Order—

"Dormant companies

Resolution not to appoint auditors

258.—(1) A company may by special resolution make itself exempt from the provisions of this Part relating to the audit of accounts in the following cases—

- (a) if the company has been dormant from the time of its formation, by a special resolution passed before the first general meeting of the company at which annual accounts are laid;
 - (b) if the company has been dormant since the end of the previous financial year and—
 - (i) is entitled in respect of its individual accounts for that year to the exemptions conferred by Article 254 on a small company, or would be so entitled but for being a member of an ineligible group, and
 - (ii) is not required to prepare group accounts for that year, by a special resolution passed at a general meeting of the company at which the annual accounts for that year are laid.
- (2) A company may not pass such a resolution if it is—
- (a) a public company,
 - (b) a banking or insurance company, or
 - (c) an authorised person under the Financial Services Act 1986.

(3) A company is "dormant" during a period in which no significant accounting transaction occurs, that is, no transaction which is required by Article 229 to be entered in the company's accounting records; and a company ceases to be dormant on the occurrence of such a transaction.

For this purpose there shall be disregarded any transaction arising from the taking of shares in the company by a subscriber to the memorandum in pursuance of an undertaking of his in the memorandum.

(4) Where a company is, at the end of a financial year, exempt by virtue of this Article from the provisions of this Part relating to the audit of accounts—

- (a) Articles 246 and 247 (right to receive or demand copies of accounts and reports) have effect with the omission of references to the auditors' report;
- (b) no copies of an auditors' report need be laid before the company in general meeting;
- (c) no copy of an auditors' report need be delivered to the registrar, and if none is delivered, the copy of the balance sheet so delivered shall contain a statement by the directors, in a position immediately above the signature required by Article 241(4), that the company was dormant throughout the financial year; and
- (d) the company shall be treated as entitled in respect of its individual accounts for that year to the exemptions conferred by Article 254 on a small company notwithstanding that it is a member of an ineligible group.

(5) Where a company which is exempt by virtue of this Article from the provisions of this Part relating to the audit of accounts—

- (a) ceases to be dormant, or
- (b) would no longer qualify (for any other reason) to make itself exempt by passing a resolution under this Article, it shall thereupon cease to be so exempt."

Public listed companies: provision of summary financial statement

17. The following Article is inserted in Part VIII of the 1986 Order—

"Listed public companies

Provision of summary financial statement to shareholders

259.—(1) A public company whose shares, or any class of whose shares, are listed need not, in such cases as may be specified by

regulations made by the Department, and provided any conditions so specified are complied with, send copies of the documents referred to in Article 246(1) to members of the company, but may instead send them a summary financial statement.

In this paragraph "listed" means admitted to the Official List of The International Stock Exchange of the United Kingdom and the Republic of Ireland Limited.

(2) Copies of the documents referred to in Article 246(1) shall, however, be sent to any member of the company who wishes to receive them; and the Department may by regulations make provision as to the manner in which it is to be ascertained whether a member of the company wishes to receive them.

(3) The summary financial statement shall be derived from the company's annual accounts and the directors' report and shall be in such form and contain such information as may be specified by regulations made by the Department.

(4) Every summary financial statement shall—

- (a) state that it is only a summary of information in the company's annual accounts and the directors' report;
- (b) contain a statement by the company's auditors of their opinion as to whether the summary financial statement is consistent with those accounts and that report and complies with the requirements of this Article and regulations made under it;
- (c) state whether the auditors' report on the annual accounts was unqualified or qualified, and if it was qualified set out the report in full together with any further material needed to understand the qualification;
- (d) state whether the auditors' report on the annual accounts contained a statement under—
 - (i) Article 245(2) (accounting records or returns inadequate or accounts not agreeing with records and returns), or
 - (ii) Article 245(3) (failure to obtain necessary information and explanations),and if so, set out the statement in full.

(5) If default is made in complying with this Article or regulations made under it, the company and every officer of it who is in default is guilty of an offence and liable to a fine.

(6) Article 248 (requirements in connection with publication of accounts) does not apply in relation to the provision to members of a company of a summary financial statement in accordance with this Article."

Private companies: election to dispense with laying of accounts and reports before general meeting

18. The following Articles are inserted in Part VIII of the 1986 Order—

“Private companies

Election to dispense with laying of accounts and reports before general meeting

260.—(1) A private company may elect (by elective resolution in accordance with Article 387A) to dispense with the laying of accounts and reports before the company in general meeting.

(2) An election has effect in relation to the accounts and reports in respect of the financial year in which the election is made and subsequent financial years.

(3) Whilst an election is in force, the references in the following provisions of this Order to the laying of accounts before the company in general meeting shall be read as references to the sending of copies of the accounts to members and others under Article 246(1)—

- (a) Article 243(1) (accounts on which auditors are to report),
- (b) Article 278(3) and (4) (accounts by reference to which distributions are justified), and
- (c) Article 328(2) (accounts relevant for determining company's net assets for purposes of ascertaining whether approval required for certain transactions);

and the requirement in Article 279(4) that the auditors' statement under that provision be laid before the company in general meeting shall be read as a requirement that it be sent to members and others along with the copies of the accounts sent to them under Article 246(1).

(4) If an election under this Article ceases to have effect, Article 249 applies in relation to the accounts and reports in respect of the financial year in which the election ceases to have effect and subsequent financial years.

Right of shareholder to require laying of accounts

261.—(1) Where an election under Article 260 is in force, the copies of the accounts and reports sent out in accordance with Article 246(1)—

- (a) shall be sent not less than 28 days before the end of the period allowed for laying and delivering accounts and reports, and
- (b) shall be accompanied, in the case of a member of the company, by a notice informing him of his right to require

the laying of the accounts and reports before a general meeting;

and Article 246(5) (penalty for default) applies in relation to the above requirements as to the requirements contained in that Article.

(2) Before the end of the period of 28 days beginning with the day on which the accounts and reports are sent out in accordance with Article 246(1), any member or auditor of the company may by notice in writing deposited at the registered office of the company require that a general meeting be held for the purpose of laying the accounts and reports before the company.

(3) If the directors do not within 21 days from the date of the deposit of such a notice proceed duly to convene a meeting, the person who deposited the notice may do so himself.

(4) A meeting so convened shall not be held more than 3 months from that date and shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors.

(5) Where the directors do not duly convene a meeting, any reasonable expenses incurred by reason of that failure by the person who deposited the notice shall be made good to him by the company, and shall be recouped by the company out of any fees, or other remuneration in respect of their services, due or to become due to such of the directors as were in default.

(6) The directors shall be deemed not to have duly convened a meeting if they convene a meeting for a date more than 28 days after the date of the notice convening it.”

Unlimited companies: exemption from requirement to deliver accounts and reports

19. The following Article is inserted in Part VIII of the 1986 Order—

“Unlimited companies

Exemption from requirement to deliver accounts and reports

262.—(1) The directors of an unlimited company are not required to deliver accounts and reports to the registrar in respect of a financial year if the following conditions are met.

(2) The conditions are that at no time during the relevant accounting reference period—

- (a) has the company been, to its knowledge, a subsidiary undertaking of an undertaking which was then limited, or
- (b) have there been, to its knowledge, exercisable by or on behalf of two or more undertakings which were then

- limited, rights which if exercisable by one of them would have made the company a subsidiary undertaking of it, or
- (c) has the company been a parent company of an undertaking which was then limited.

The references above to an undertaking being limited at a particular time are to an undertaking (under whatever law established) the liability of whose members is at that time limited.

(3) The exemption conferred by this Article does not apply if at any time during the relevant accounting period the company carried on business as the promoter of a trading stamp scheme within the Trading Stamps Act (Northern Ireland) 1965.

1965 c. 6 (N.I.)

(4) Where a company is exempt by virtue of this Article from the obligation to deliver accounts, Article 248 (requirements in connection with publication of accounts) has effect with the following modifications—

- (a) in paragraph (3)(b) for the words ‘whether statutory accounts’ to ‘have been delivered to the registrar’ substitute ‘that the company is exempt from the requirement to deliver statutory accounts’, and
- (b) in paragraph (5) for ‘as required to be delivered to the registrar under Article 250’ substitute ‘as prepared in accordance with this Part and approved by the board of directors’.”.

Banking and insurance companies and groups: special provisions

20.—(1) The following Articles are inserted in Part VIII of the 1986 Order—

“Banking and insurance companies and groups

Special provisions for banking and insurance companies

263.—(1) A banking or insurance company may prepare its individual accounts in accordance with Part I of Schedule 9 rather than Schedule 4.

(2) Accounts so prepared shall contain a statement that they are prepared in accordance with the special provisions of this Part relating to banking companies or insurance companies, as the case may be.

(3) In relation to the preparation of individual accounts in accordance with the special provisions of this Part relating to banking or insurance companies, the references to the provisions of Schedule 4 in Article 234(4) and (5) (relationship between specific requirements and duty to give true and fair view) shall be read as references to the provisions of Part I of Schedule 9.

(4) The Department may, on the application or with the consent of the directors of a company which prepares individual accounts

in accordance with the special provisions of this Part relating to banking or insurance companies, modify in relation to the company any of the requirements of this Part for the purpose of adapting them to the circumstances of the company.

This does not affect the duty to give a true and fair view.

Special provisions for banking and insurance groups

263A.—(1) The parent company of a banking or insurance group may prepare group accounts in accordance with the provisions of this Part as modified by Part II of Schedule 9.

(2) Accounts so prepared shall contain a statement that they are prepared in accordance with the special provisions of this Part relating to banking groups or insurance groups, as the case may be.

(3) References in this Part to a banking group are to a group where—

- (a) the parent company is a banking company, or
- (b) at least one of the undertakings in the group is an authorised institution under the Banking Act 1987 and the predominant activities of the group are such as to make it inappropriate to prepare group accounts in accordance with the formats in Part I of Schedule 4.

1987 c. 22

(4) References in this Part to an insurance group are to a group where—

- (a) the parent company is an insurance company, or
- (b) the predominant activity of the group is insurance business and activities which are a direct extension of or ancillary to insurance business.

(5) In relation to the preparation of group accounts in accordance with the special provisions of this Part relating to banking or insurance groups, the references to the provisions of Schedule 4A in Article 235(5) and (6) (relationship between specific requirements and duty to give true and fair view) shall be read as references to those provisions as modified by Part II of Schedule 9.

(6) The Department may, on the application or with the consent of the directors of a company which prepares group accounts in accordance with the special provisions of this Part relating to banking or insurance groups, modify in relation to the company any of the requirements of this Part for the purpose of adapting them to the circumstances of the company.

Modification of disclosure requirements in relation to banking company or group

263B.—(1) In relation to a company which prepares accounts in accordance with the special provisions of this Part relating to

banking companies or groups, the provisions of Schedule 5 (additional disclosure: related undertakings) have effect subject to Part III of Schedule 9.

(2) In relation to a banking company, or the parent company of a banking company, the provisions of Schedule 6 (disclosure: emoluments and other benefits of directors and others) have effect subject to Part IV of Schedule 9.

Directors' report where accounts prepared in accordance with special provisions

263C.—(1) The following provisions apply in relation to the directors' report of a company for a financial year in respect of which it prepares accounts in accordance with the special provisions of this Part relating to banking or insurance companies or groups.

(2) The information required to be given by paragraph 6, 8 or 13 of Part I of Schedule 9 (which is allowed to be given in a statement or report annexed to the accounts), may be given in the director's report instead.

Information so given shall be treated for the purposes of audit as forming part of the accounts.

(3) The reference in Article 242(1)(b) to the amount proposed to be carried to reserves shall be construed as a reference to the amount proposed to be carried to reserves within the meaning of Part I of Schedule 9.

(4) If the company takes advantage, in relation to its individual or group accounts, of the exemptions conferred by paragraph 27 or 28 of Part I of Schedule 9, paragraph 1 of Schedule 7 (disclosure of asset values) does not apply.

(5) The directors' report shall, in addition to complying with Schedule 7, also comply with Schedule 10 (which specifies additional matters to be disclosed)."

(2) The following Article is inserted in Part VIII of the 1986 Order—

"Power to apply provisions to banking partnerships

263D.—(1) The Department may by regulations apply to banking partnerships, subject to such exceptions, adaptations and modifications as it considers appropriate, the provisions of this Part applying to banking companies.

(2) A "banking partnership" means a partnership which is an authorised institution under the Banking Act 1987.

(3) No regulations under this Article shall be made unless a draft of the regulations has been laid before and approved by a resolution of the Assembly."

1987 c. 22

(3) Schedule 9 to the 1986 Order (form and content of special category accounts) is amended in accordance with Schedule 7 to this Order.

(4) In that Schedule—

Part I contains amendments relating to the form and content of accounts of banking and insurance companies and groups,

Part II contains provisions with respect to the group accounts of banking and insurance groups,

Part III contains provisions adapting the requirements of Schedule 5 to the 1986 Order (additional disclosure: related undertakings), and

Part IV contains provisions relating to the requirements of Schedule 6 to that Order (additional disclosure: emoluments and other benefits of directors and others).

(5) Schedule 8 to this Order (directors' report where accounts prepared in accordance with special provisions for banking and insurance companies and groups) is substituted for Schedule 10 to the 1986 Order.

Supplementary provisions

Accounting standards

21. The following Article is inserted in Part VIII of the 1986 Order, as the beginning of a Chapter III—

“CHAPTER III

SUPPLEMENTARY PROVISIONS

Accounting standards

Accounting standards

264.—(1) In this Part “accounting standards” means statements of standard accounting practice issued by such body or bodies as may be prescribed.

(2) References in this Part to accounting standards applicable to a company's annual accounts are to such standards as are, in accordance with their terms, relevant to the company's circumstances and to the accounts.

(3) The Department may make grants to or for the purposes of bodies concerned with—

(a) issuing accounting standards,

(b) overseeing and directing the issuing of such standards, or

(c) investigating departures from such standards or from the accounting requirements of this Order and taking steps to secure compliance with them.

(4) Regulations under this Article may contain such transitional provisions as appear to the Department to be appropriate.”.

Power to alter accounting requirements

22. The following Article is inserted in Part VIII of the 1986 Order—

“Power to alter accounting requirements

Power of Department to alter accounting requirements

265.—(1) The Department may by regulations modify the provisions of this Part.

(2) Regulations which—

- (a) add to the classes of documents required to be prepared, laid before the company in general meeting or delivered to the registrar,
- (b) restrict the classes of company which have the benefit of any exemption, exception or special provision,
- (c) require additional matter to be included in a document of any class, or
- (d) otherwise render the requirements of this Part more onerous,

shall not be made unless a draft of the regulations has been laid before and approved by a resolution of the Assembly.

(3) Regulations under this Article may—

- (a) repeal and re-enact provisions with modifications of form or arrangement, whether or not they are modified in substance,
- (b) make consequential amendments or repeals in other provisions of this Order, or in other statutory provisions;
- (c) contain such transitional provisions as the Department thinks fit.

(4) Any modification by regulations under this Article of Article 266 or Schedule 10A (parent and subsidiary undertakings) does not apply for the purposes of statutory provisions outside the Companies Orders unless the regulations so provide.”.

Parent and subsidiary undertakings

23.—(1) The following Article is inserted in Part VIII of the 1986 Order—

“Parent and subsidiary undertakings

Parent and subsidiary undertakings

266.—(1) The expressions “parent undertaking” and “sub-

subsidiary undertaking” in this Part shall be construed as follows; and a “parent company” means a parent undertaking which is a company.

(2) An undertaking is a parent undertaking in relation to another undertaking, a subsidiary undertaking, if—

- (a) it holds a majority of the voting rights in the undertaking, or
- (b) it is a member of the undertaking and has the right to appoint or remove a majority of its board of directors, or
- (c) it has the right to exercise a dominant influence over the undertaking—
 - (i) by virtue of provisions contained in the undertaking’s memorandum or articles, or
 - (ii) by virtue of a control contract, or
- (d) it is a member of the undertaking and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in the undertaking.

(3) For the purposes of paragraph (2) an undertaking shall be treated as a member of another undertaking—

- (a) if any of its subsidiary undertakings is a member of that undertaking, or
- (b) if any shares in that other undertaking are held by a person acting on behalf of the undertaking or any of its subsidiary undertakings.

(4) An undertaking is also a parent undertaking in relation to another undertaking, a subsidiary undertaking, if it has a participating interest in the undertaking and—

- (a) it actually exercises a dominant influence over it, or
- (b) it and the subsidiary undertaking are managed on a unified basis.

(5) A parent undertaking shall be treated as the parent undertaking of undertakings in relation to which any of its subsidiary undertakings are, or are to be treated as, parent undertakings; and references to its subsidiary undertakings shall be construed accordingly.

(6) Schedule 10A contains provisions explaining expressions used in this Article and otherwise supplementing this Article.”

(2) Schedule 9 to this Order (parent and subsidiary undertakings: supplementary provisions) is inserted after Schedule 10 to the 1986 Order, as Schedule 10A.

Other interpretation provisions

24. The following Articles are inserted in Part VIII of the 1986 Order—

“Other interpretation provisions

Meaning of “undertaking” and related expressions

267.—(1) In this Part “undertaking” means—

- (a) a body corporate or partnership, or
- (b) an unincorporated association carrying on a trade or business, with or without a view to profit.

(2) In this Part references to shares—

- (a) in relation to an undertaking with a share capital, are to allotted shares;
- (b) in relation to an undertaking with capital but no share capital, are to rights to share in the capital of the undertaking; and
- (c) in relation to an undertaking without capital, are to interests—
 - (i) conferring any right to share in the profits or liability to contribute to the losses of the undertaking, or
 - (ii) giving rise to an obligation to contribute to the debts or expenses of the undertaking in the event of a winding up.

(3) Other expressions appropriate to companies shall be construed, in relation to an undertaking which is not a company, as references to the corresponding persons, officers, documents or organs, as the case may be, appropriate to undertakings of that description.

This is subject to provision in any specific context providing for the translation of such expressions.

(4) References in this Part to “fellow subsidiary undertakings” are to undertakings which are subsidiary undertakings of the same parent undertaking but are not parent undertakings or subsidiary undertakings of each other.

(5) In this Part “group undertaking”, in relation to an undertaking, means an undertaking which is—

- (a) a parent undertaking or subsidiary undertaking of that undertaking, or
- (b) a subsidiary undertaking of any parent undertaking of that undertaking.

Participating interests

268.—(1) In this Part a “participating interest” means an interest held by an undertaking in the shares of another undertaking which it holds on a long-term basis for the purpose of securing a contribution to its activities by the exercise of control or influence arising from or related to that interest.

(2) A holding of 20 per cent. or more of the shares of an

undertaking shall be presumed to be a participating interest unless the contrary is shown.

(3) The reference in paragraph (1) to an interest in shares includes—

(a) an interest which is convertible into an interest in shares, and

(b) an option to acquire shares or any such interest; and an interest or option falls within sub-paragraph (a) or (b) notwithstanding that the shares to which it relates are, until the conversion or the exercise of the option, unissued.

(4) For the purposes of this Article an interest held on behalf of an undertaking shall be treated as held by it.

(5) For the purposes of this Article as it applies in relation to the expression “participating interest” in Article 266(4) (definition of “subsidiary undertaking”)—

(a) there shall be attributed to an undertaking any interests held by any of its subsidiary undertakings, and

(b) the references in paragraph (1) to the purpose and activities of an undertaking include the purposes and activities of any of its subsidiary undertakings and of the group as a whole.

(6) In the balance sheet and profit and loss formats set out in Part I of Schedule 4, “participating interest” does not include an interest in a group undertaking.

(7) For the purposes of this Article as it applies in relation to the expression “participating interest”—

(a) in those formats as they apply in relation to group accounts, and

(b) in paragraph 20 of Schedule 4A (group accounts: undertakings to be accounted for as associated undertakings), the references in paragraphs (1) to (4) to the interest held by, and the purposes and activities of, the undertaking concerned shall be construed as references to the interest held by, and the purposes and activities of, the group (within the meaning of paragraph 1 of that Schedule).

Notes to the accounts

269.—(1) Information required by this Part to be given in notes to a company’s annual accounts may be contained in the accounts or in a separate document annexed to the accounts.

(2) References in this Part to a company’s annual accounts, or to a balance sheet or profit and loss account, include notes to the accounts giving information which is required by any provision of this Order, and required or allowed by any such provision to be given in a note to company accounts.

Minor definitions

270.—(1) In this Part—

“annual accounts” means—

(a) the individual accounts required by Article 234, and

(b) any group accounts required by Article 235,

(but see also Article 238 (treatment of individual profit and loss account where group accounts prepared));

“annual report”, in relation to a company, means the directors’ report required by Article 242;

“balance sheet date” means the date as at which the balance sheet was made up;

“capitalisation”, in relation to work or costs, means treating that work or those costs as a fixed asset;

“credit institution” means an undertaking carrying on a deposit-taking business within the meaning of the Banking Act 1987; 1987 c. 22

“fixed assets” means assets of a company which are intended for use on a continuing basis in the company’s activities, and

“current assets” means assets not intended for such use;

“group” means a parent undertaking and its subsidiary undertakings;

“included in the consolidation”, in relation to group accounts, or “included in consolidated group accounts”, means that the undertaking is included in the accounts by the method of full (and not proportional) consolidation, and references to an undertaking excluded from consolidation shall be construed accordingly;

“purchase price”, in relation to an asset of a company or any raw materials or consumables used in the production of such an asset, includes any consideration (whether in cash or otherwise) given by the company in respect of that asset or those materials or consumables, as the case may be;

“qualified”, in relation to an auditors’ report, means that the report does not state the auditors’ unqualified opinion that the accounts have been properly prepared in accordance with this Order or, in the case of an undertaking not required to prepare accounts in accordance with this Order, under any corresponding legislation under which it is required to prepare accounts;

“true and fair view” refers—

(a) in the case of individual accounts, to the requirement of Article 234(2), and

(b) in the case of group accounts, to the requirement of Article 235(3);

“turnover”, in relation to a company, means the amounts derived from the provision of goods and services falling

within the company's ordinary activities, after deduction of—

- (i) trade discounts,
- (ii) value added tax, and
- (iii) any other taxes based on the amounts so derived.

(2) In the case of an undertaking not trading for profit, any reference in this Part to a profit and loss account is to an income and expenditure account; and references to profit and loss and, in relation to group accounts, to a consolidated profit and loss account shall be construed accordingly.

(3) References in this Part to “realised profits” and “realised losses”, in relation to a company's accounts, are to such profits or losses of the company as fall to be treated as realised in accordance with principles generally accepted, at the time when the accounts are prepared, with respect to the determination for accounting purposes of realised profits or losses.

This is without prejudice to—

- (a) the construction of any other expression (where appropriate) by reference to accepted accounting principles or practice, or
- (b) any specific provision for the treatment of profits or losses of any description as realised.

Index of defined expressions

270A. The following Table shows the provisions of this Part defining or otherwise explaining expressions used in this Part (other than expressions used only in the same Article or paragraph)—

accounting reference date and accounting reference period	Article 232
accounting standards and applicable accounting standards	Article 264
annual accounts	
(generally)	Article 270(1)
(includes notes to the accounts)	Article 269(2)
annual report	Article 270(1)
associated undertaking (in Schedule 4A)	paragraph 20 of that Schedule
balance sheet (includes notes)	Article 269(2)
balance sheet date	Article 270(1)
banking group	Article 263A(3)
capitalisation (in relation to work or costs)	Article 270(1)
credit institution	Article 270(1)

current assets	Article 270(1)
fellow subsidiary undertaking	Article 267(4)
financial year	Article 231
fixed assets	Article 270(1)
group	Article 270(1)
group undertaking	Article 267(5)
historical cost accounting rules (in Schedule 4)	paragraph 29 of that Schedule
included in the consolidation and related expressions	Article 270(1)
individual accounts	Article 234(1)
insurance group	Article 263A(4)
lease, long lease and short lease	
—in Schedule 4	paragraph 82 of that Schedule
—in Schedule 9	paragraph 34 of that Schedule
listed investment	
—in Schedule 4	paragraph 83 of that Schedule
—in Schedule 9	paragraph 33 of that Schedule
notes to the accounts	Article 269(1)
parent undertaking (and parent company)	Article 266 and Schedule 10A
participating interest	Article 268
pension costs (in Schedule 4)	paragraph 92(2) and (3) of that Schedule
period allowed for laying and delivering accounts and reports	Article 252
profit and loss account	
(includes notes)	Article 269(2)
(in relation to a company not trading for profit)	Article 270(2)
provision	
—in Schedule 4	paragraphs 87 and 88 of that Schedule
—in Schedule 9	paragraph 32 of that Schedule
purchase price	Article 270(1)
qualified	Article 270(1)
realised losses and realised profits	Article 270(3)
reserve (in Schedule 9)	paragraph 32 of that Schedule

shares	Article 267(2)
social security costs (in Schedule 4)	paragraph 92(1) and (3) of that Schedule
special provisions for banking and insurance companies and groups	Articles 263 and 263A
subsidiary undertaking	Article 266 and Schedule 10A
true and fair view	Article 270(1)
turnover	Article 270(1)
undertaking and related expressions	Article 267(1) to (3).”.

Consequential amendments

25. The statutory provisions specified in Schedule 10 have effect with the amendments specified there, which are consequential on the amendments made by the preceding provisions of this Part.

Repeals consequential on Part II

26. The statutory provisions set out in Part I of Schedule 15 are hereby repealed to the extent specified in the third column of that Part, being repeals consequential on this Part.

PART III

ELIGIBILITY FOR APPOINTMENT AS COMPANY AUDITOR

Introduction

Introduction

27.—(1) The main purposes of this Part are to secure that only persons who are properly supervised and appropriately qualified are appointed company auditors, and that audits by persons so appointed are carried out properly and with integrity and with a proper degree of independence.

(2) A “company auditor” means a person appointed as auditor under Chapter V of Part XII of the 1986 Order; and the expressions “company audit” and “company audit work” shall be construed accordingly.

Eligibility for appointment

Eligibility for appointment

28.—(1) A person is eligible for appointment as a company auditor only if he—

- (a) is a member of a recognised supervisory body, and
 - (b) is eligible for the appointment under the rules of that body.
- (2) An individual or a firm may be appointed a company auditor.

Effect of appointment of partnership

29.—(1) The following provisions apply to the appointment as company auditor of a partnership constituted under the law of England and Wales or Northern Ireland, or under the law of any other country or territory in which a partnership is not a legal person.

(2) The appointment is (unless a contrary intention appears) an appointment of the partnership as such and not of the partners.

(3) Where the partnership ceases, the appointment shall be treated as extending to—

- (a) any partnership which succeeds to the practice of that partnership and is eligible for the appointment, and
- (b) any person who succeeds to that practice having previously carried it on in partnership and is eligible for the appointment.

(4) For this purpose a partnership shall be regarded as succeeding to the practice of another partnership only if the members of the successor partnership are substantially the same as those of the former partnership; and a partnership or other person shall be regarded as succeeding to the practice of a partnership only if it or he succeeds to the whole or substantially the whole of the business of the former partnership.

(5) Where the partnership ceases and no person succeeds to the appointment under paragraph (3), the appointment may with the consent of the company be treated as extending to a partnership or other person eligible for the appointment who succeeds to the business of the former partnership or to such part of it as is agreed by the company shall be treated as comprising the appointment.

Ineligibility on ground of lack of independence

30.—(1) A person is ineligible for appointment as company auditor of a company if he is—

- (a) an officer or employee of the company, or
- (b) a partner or employee of such a person, or a partnership of which such a person is a partner,

or if he is ineligible by virtue of sub-paragraph (a) or (b) for appointment as company auditor of any associated undertaking of the company.

For this purpose an auditor of a company shall not be regarded as an officer or employee of the company.

(2) A person is also ineligible for appointment as company auditor of a company if there exists between him or any associate of his and

the company or any associated undertaking a connection of any such description as may be specified by regulations made by the Department.

(3) In this Article “associated undertaking”, in relation to a company, means—

- (a) a parent undertaking or subsidiary undertaking of the company, or
- (b) a subsidiary undertaking of any parent undertaking of the company.

(4) Regulations under this Article shall be subject to negative resolution.

Effect of ineligibility

31.—(1) No person shall act as a company auditor if he is ineligible for appointment to the office.

(2) If during his term of office a company auditor becomes ineligible for appointment to the office, he shall thereupon vacate office and shall forthwith give notice in writing to the company concerned that he has vacated it by reason of ineligibility.

(3) A person who acts as company auditor in contravention of paragraph (1), or fails to give notice of vacating his office as required by paragraph (2), is guilty of an offence and liable—

- (a) on conviction on indictment, to a fine, and
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

(4) In the case of continued contravention he is liable on a second or subsequent summary conviction (instead of the fine mentioned in paragraph (3)(b)) to a fine not exceeding one-tenth of the statutory maximum in respect of each day on which the contravention is continued.

(5) In proceedings against a person for an offence under this Article it is a defence for him to show that he did not know and had no reason to believe that he was, or had become, ineligible for appointment.

Power of Department to require second audit

32.—(1) Where a person appointed company auditor was, for any part of the period during which the audit was conducted, ineligible for appointment to that office, the Department may direct the company concerned to retain a person eligible for appointment as auditor of the company—

- (a) to audit the relevant accounts again, or
- (b) to review the first audit and to report (giving his reasons) whether a second audit is needed;

and the company shall comply with such a direction within 21 days of its being given.

(2) If a second audit is recommended the company shall forthwith take such steps as are necessary to comply with the recommendation.

(3) Where a direction is given under this Article, the Department shall send a copy of the direction to the registrar; and the company shall within 21 days of receiving any report under paragraph (1)(b) send a copy of it to the registrar.

The provisions of the 1986 Order relating to the delivery of documents to the registrar apply for the purposes of this paragraph.

(4) Any statutory or other provisions applying in relation to the first audit shall apply, so far as practicable, in relation to a second audit under this Article.

(5) If a company fails to comply with the requirements of this Article, it is guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum; and in the case of continued contravention it is liable on a second or subsequent summary conviction (instead of the fine mentioned above) to a fine not exceeding one-tenth of the statutory maximum in respect of each day on which the contravention is continued.

(6) A direction under this Article is, on the application of the Department, enforceable by injunction.

(7) If a person accepts an appointment, or continues to act, as company auditor at a time when he knows he is ineligible, the company concerned may recover from him any costs incurred by it in complying with the requirements of this Article.

Recognition of supervisory bodies and professional qualifications

Supervisory bodies

33.—(1) In this Part a “supervisory body” means a body established in the United Kingdom (whether a body corporate or an unincorporated association) which maintains and enforces rules as to—

- (a) the eligibility of persons to seek appointment as company auditors, and
- (b) the conduct of company audit work,

which are binding on persons seeking appointment or acting as company auditors either because they are members of that body or because they are otherwise subject to its control.

(2) In this Part references to the members of a supervisory body are to the persons who, whether or not members of the body, are

subject to its rules in seeking appointment or acting as company auditors.

(3) In this Part references to the rules of a supervisory body are to the rules (whether or not laid down by the body itself) which the body has power to enforce and which are relevant for the purposes of this Part.

This includes rules relating to the admission and expulsion of members of the body, so far as relevant for the purposes of this Part.

(4) In this Part references to guidance issued by a supervisory body are to guidance issued or any recommendation made by it to all or any class of its members or persons seeking to become members which would, if it were a rule, fall within paragraph (3).

(5) The provisions of Parts I and II of Schedule 11 have effect with respect to the recognition of supervisory bodies for the purposes of this Part.

Meaning of "appropriate qualification"

34.—(1) A person holds an appropriate qualification for the purposes of this Part if—

- (a) he was, by virtue of membership of a body recognised for the purposes of Article 397(1)(a) of the 1986 Order, qualified for appointment as auditor of a company under that Article immediately before 1st January 1990 and immediately before the coming into operation of Article 28,
- (b) he holds a recognised professional qualification obtained in the United Kingdom, or
- (c) he holds an approved overseas qualification and satisfies any additional educational requirements applicable in accordance with Article 36(4).

(2) A person who, immediately before 1st January 1990 and immediately before the coming into operation of Article 28, was qualified for appointment as auditor of a company under Article 397 of the 1986 Order otherwise than by virtue of membership of a body recognised for the purposes of Article 397(1)(a)—

- (a) shall be treated as holding an appropriate qualification for 12 months from the day on which Article 28 comes into operation, and
- (b) shall continue to be so treated if within that period he notifies the Department that he wishes to retain the benefit of his qualification.

The notice shall be in writing and shall contain such information as the Department may require.

(3) If a person fails to give such notice within the time allowed he may apply to the Department, giving such information as would have been required in connection with a notice, and the Department may,

if it is satisfied—

- (a) that there was good reason why the applicant did not give notice in time, and
- (b) that the applicant genuinely intends to practise as an auditor in Northern Ireland,

direct that he shall be treated as holding an appropriate qualification for the purposes of this Part.

(4) A person who—

- (a) began before 1st January 1990 a course of study or practical training leading to a professional qualification in accountancy offered by a body established in the United Kingdom, and
- (b) obtained that qualification on or after that date and before 1st January 1996,

shall be treated as holding an appropriate qualification if the qualification is approved by the Department for the purposes of this paragraph.

(5) Approval shall not be given unless the Department is satisfied that the body concerned has or, as the case may be, had at the relevant time adequate arrangements to ensure that the qualification is, or was, awarded only to persons educated and trained to a standard equivalent to that required in the case of a recognised professional qualification.

(6) A person shall not be regarded as holding an appropriate qualification for the purposes of this Part except in the above cases.

Qualifying bodies and recognised professional qualifications

35.—(1) In this Part a “qualifying body” means a body established in the United Kingdom (whether a body corporate or an unincorporated association) which offers a professional qualification in accountancy.

(2) In this Part references to the rules of a qualifying body are to the rules (whether or not laid down by the body itself) which the body has power to enforce and which are relevant for the purposes of this Part.

This includes rules relating to—

- (a) admission to or expulsion from a course of study leading to a qualification,
- (b) the award or deprivation of a qualification, or
- (c) the approval of a person for the purposes of giving practical training or the withdrawal of such approval,

so far as relevant for the purposes of this Part.

(3) In this Part references to guidance issued by any such body are

to any guidance which the body issues, or any recommendation it makes to all or any class of persons holding or seeking to hold a qualification, or approved or seeking to be approved by the body for the purpose of giving practical training, which would, if it were a rule, fall within paragraph (2).

(4) The provisions of Parts I and II of Schedule 12 have effect with respect to the recognition for the purposes of this Part of a professional qualification offered by a qualifying body.

Approval of overseas qualifications

36.—(1) The Department may declare that persons who—

(a) are qualified to audit accounts under the law of a specified country or territory outside the United Kingdom, or

(b) hold a specified professional qualification in accountancy recognised under the law of a country or territory outside the United Kingdom,

shall be regarded for the purposes of this Part as holding an approved overseas qualification.

(2) A qualification shall not be so approved by the Department unless it is satisfied that it affords an assurance of professional competence equivalent to that afforded by a recognised professional qualification.

(3) In exercising the power conferred by paragraph (1) the Department may have regard to the extent to which persons—

(a) eligible under this Part for appointment as a company auditor, or

(b) holding a professional qualification recognised under this Part,

are recognised by the law of the country or territory in question as qualified to audit accounts there.

(4) The Department may direct that a person holding an approved overseas qualification shall not be treated as holding an appropriate qualification for the purposes of this Part unless he holds such additional educational qualifications as the Department may specify for the purpose of ensuring that such persons have an adequate knowledge of the law and practice in the United Kingdom relevant to the audit of accounts.

(5) Different directions may be given in relation to different qualifications.

(6) The Department may if it thinks fit, having regard to the considerations mentioned in paragraphs (2) and (3), withdraw its approval of an overseas qualification in relation to persons becoming qualified as mentioned in paragraph (1)(a), or obtaining such a qualification as is mentioned in paragraph (1)(b), after such date as it may specify.

Duties of recognised bodies

The register of auditors

37.—(1) The Department shall make regulations requiring the keeping of a register of—

- (a) the individuals and firms eligible for appointment as company auditor, and
- (b) the individuals holding an appropriate qualification who are responsible for company audit work on behalf of such firms.

(2) The regulations shall provide that each person's entry in the register shall give—

- (a) his name and address, and
- (b) in the case of a person eligible as mentioned in paragraph (1)(a), the name of the relevant supervisory body,

together with such other information as may be specified by the regulations.

(3) The regulations may impose such obligations as the Department thinks fit—

- (a) on recognised supervisory bodies,
- (b) on persons eligible for appointment as company auditor, and
- (c) on any person with whom arrangements are made by one or more recognised supervisory bodies with respect to the keeping of the register.

(4) The regulations may include provision—

- (a) requiring the register to be open to inspection at such times and places as may be specified in the regulations or determined in accordance with them,
- (b) enabling a person to require a certified copy of an entry in the register, and
- (c) authorising the charging of fees for inspection, or the provision of copies, of such reasonable amount as may be specified in the regulations or determined in accordance with them,

and may contain such other supplementary and incidental provisions as the Department thinks fit.

(5) Regulations under this Article shall be subject to negative resolution.

(6) The obligations imposed by regulations under this Article on such persons as are mentioned in paragraph (3)(a) or (c) are enforceable on the application of the Department by injunction.

Information about firms to be available to public

38.—(1) The Department shall make regulations requiring recog-

nised supervisory bodies to keep and make available to the public the following information with respect to the firms eligible under their rules for appointment as a company auditor—

- (a) in relation to a body corporate, the name and address of each person who is a director of the body or holds any shares in it,
- (b) in relation to a partnership, the name and address of each partner,

and such other information as may be specified in the regulations.

(2) The regulations may impose such obligations as the Department thinks fit—

- (a) on recognised supervisory bodies,
- (b) on persons eligible for appointment as company auditor, and
- (c) on any person with whom arrangements are made by one or more recognised supervisory bodies with respect to the keeping of the information.

(3) The regulations may include provision—

- (a) requiring that the information be open to inspection at such times and places as may be specified in the regulations or determined in accordance with them,
- (b) enabling a person to require a certified copy of the information or any part of it, and
- (c) authorising the charging of fees for inspection, or the provision of copies, of such reasonable amount as may be specified in the regulations or determined in accordance with them;

and may contain such other supplementary and incidental provisions as the Department thinks fit.

(4) Regulations under this Article shall be subject to negative resolution.

(5) The obligations imposed by regulations under this Article on such persons as are mentioned in paragraph (2)(a) or (c) are enforceable on the application of the Department by injunction.

Matters to be notified to the Department

39.—(1) The Department may require a recognised supervisory or qualifying body—

- (a) to notify it forthwith of the occurrence of such events as it may specify in writing and to give it such information in respect of those events as is so specified;
- (b) to give it, at such times or in respect of such periods as it may specify in writing, such information as is so specified.

(2) The notices and information required to be given shall be such as the Department may reasonably require for the exercise of its functions under this Part.

(3) The Department may require information given under this Article to be given in a specified form or verified in a specified manner.

(4) Any notice or information required to be given under this Article shall be given in writing unless the Department specifies or approves some other manner.

Power to call for information

40.—(1) The Department may by notice in writing require a recognised supervisory or qualifying body to give it such information as it may reasonably require for the exercise of its functions under this Part.

(2) The Department may require that any information which it requires under this Article shall be given within such reasonable time and verified in such manner as it may specify.

Compliance orders

41.—(1) If at any time it appears to the Department—

- (a) in the case of a recognised supervisory body, that any requirement of Schedule 11 is not satisfied,
- (b) in the case of a recognised professional qualification, that any requirement of Schedule 12 is not satisfied, or
- (c) that a recognised supervisory or qualifying body has failed to comply with an obligation to which it is subject by virtue of this Part,

it may, instead of revoking the relevant recognition order, make an application to the court under this Article.

(2) If on such application the court decides that the requirement in question is not satisfied or, as the case may be, that the body has failed to comply with the obligation in question it may order the supervisory or qualifying body in question to take such steps as the court directs for securing that the requirement is satisfied or that the obligation is complied with.

(3) The jurisdiction conferred by this Article is exercisable by the High Court.

Directions to comply with international obligations

42.—(1) If it appears to the Department—

- (a) that any action proposed to be taken by a recognised supervisory or qualifying body, or a body established by order under Article 48, would be incompatible with Community obligations or any other international obligations of the United Kingdom, or
- (b) that any action which that body has power to take is required for the purpose of implementing any such obligations,

it may direct the body not to take or, as the case may be, to take the action in question.

(2) A direction may include such supplementary or incidental requirements as the Department thinks necessary or expedient.

(3) A direction under this Article is enforceable on the application of the Department by injunction.

Offences

False and misleading statements

43.—(1) A person commits an offence if—

(a) for the purposes of or in connection with any application under this Part, or

(b) in purported compliance with any requirement imposed on him by or under this Part,

he furnishes information which he knows to be false or misleading in a material particular or recklessly furnishes information which is false or misleading in a material particular.

(2) It is an offence for a person whose name does not appear on the register of auditors kept under regulations under Article 37 to describe himself as a registered auditor or so to hold himself out as to indicate, or be reasonably understood to indicate, that he is a registered auditor.

(3) It is an offence for a body which is not a recognised supervisory or qualifying body to describe itself as so recognised or so to describe itself or hold itself out as to indicate, or be reasonably understood to indicate, that it is so recognised.

(4) A person guilty of an offence under paragraph (1) is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or both;

(b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or both.

(5) A person guilty of an offence under paragraph (2) or (3) is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale or both.

Where a contravention of paragraph (2) or (3) involves a public display of the offending description, the maximum fine that may be imposed is (in place of that mentioned above) an amount equal to level 5 on the standard scale multiplied by the number of days for which the display has continued.

(6) It is a defence for a person charged with an offence under paragraph (2) or (3) to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Offences by bodies corporate, partnerships and unincorporated associations

44.—(1) For the purposes of this Part, section 20(2) of the Interpretation Act (Northern Ireland) 1954 applies with the omission of the words “the liability of whose members is limited” and where the affairs of a body corporate are managed by its members, applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

1954 c. 33 (N.I.)

(2) Where an offence under this Part committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(3) Where an offence under this Part committed by an unincorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the association or any member of its governing body, he as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

Time limits for prosecution of offences

45.—(1) Notwithstanding anything in Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981, a magistrates' court shall have jurisdiction to hear and determine a complaint charging the commission of a summary offence under this Part provided that the complaint is made within 3 years from the time when the offence was committed and within 12 months from the date on which evidence, sufficient in the opinion of the Director of Public Prosecutions for Northern Ireland or the Department (as the case may be) to justify the proceedings, comes to his or the Department's knowledge.

1981 NI 26

(2) For the purposes of this Article, a certificate of the Director of Public Prosecutions for Northern Ireland or the Department (as the case may be) as to the date on which such evidence as is referred to above came to his or its knowledge is conclusive evidence.

Jurisdiction and procedure in respect of offences

46.—(1) Summary proceedings for an offence under this Part may, without prejudice to any jurisdiction exercisable apart from this Article, be taken against a body corporate or unincorporated association at any place at which it has a place of business and against an individual at any place where he is for the time being.

(2) Proceedings for an offence alleged to have been committed under this Part by an unincorporated association shall be brought in the name of the association (and not in that of any of its members),

and for the purposes of any such proceedings any rules of court relating to the service of documents apply as in relation to a body corporate.

1945 c. 15 (N.I.) (3) Section 18 of the Criminal Justice Act (Northern Ireland) 1945 and Article 166 of and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (procedure on charge of offence against a corporation) apply in a case in which an unincorporated association is charged with an offence under this Part as they apply in the case of a corporation.

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(4) A fine imposed on an unincorporated association on its conviction of such an offence shall be paid out of the funds of the association.

Supplementary provisions

Fees

47.—(1) An applicant for a recognition order under this Part shall pay such fee in respect of his application as may be prescribed; and no application shall be regarded as duly made unless this paragraph is complied with.

(2) Every recognised supervisory or qualifying body shall pay such periodical fees to the Department as may be prescribed.

(3) In this Article "prescribed" means prescribed by regulations made by the Department.

(4) Regulations under this Article shall be subject to negative resolution.

(5) Fees received by the Department by virtue of this Part shall be paid into the Consolidated Fund.

Delegation of functions of Department

48.—(1) The Department may by order (a "delegation order") establish a body corporate to exercise its functions under this Part.

(2) A delegation order has the effect of transferring to the body established by it, subject to such exceptions and reservations as may be specified in the order, all the functions of the Department under this Part except—

(a) such functions under Part I of Schedule 14 (prevention of restrictive practices) as are excepted by regulations under Article 49, and

(b) the Department's functions in relation to the body itself; and the order may also confer on the body such other functions supplementary or incidental to those transferred as appear to the Department to be appropriate.

(3) Any transfer of the functions under the following provisions shall be subject to the reservation that they remain exercisable

concurrently by the Department—

- (a) Article 40 (power to call for information), and
- (b) Article 42 (directions to comply with international obligations);

and any transfer of the function of refusing to approve an overseas qualification, or withdrawing such approval, on the grounds referred to in Article 36(3) (lack of reciprocity) shall be subject to the reservation that the function is exercisable only with the consent of the Department.

(4) A delegation order may be amended or, if it appears to the Department that it is no longer in the public interest that the order should remain in force, revoked by a further order under this Article.

(5) Where functions are transferred or resumed, the Department may by order confer or, as the case may be, take away such other functions supplementary or incidental to those transferred or resumed as appear to it to be appropriate.

(6) The provisions of Schedule 13 have effect with respect to the status, constitution and proceedings of a body established by a delegation order, the exercise by it of certain functions transferred to it and other supplementary matters.

(7) An order which has the effect of transferring or resuming any functions shall not be made unless a draft of it has been laid before and approved by a resolution of the Assembly; and any other description of order shall be subject to negative resolution.

Restrictive practices

49.—(1) The provisions of Schedule 14 have effect with respect to certain matters relating to restrictive practices and competition law.

(2) The Department may make provision by regulations as to the discharge of the functions under paragraphs 1 to 7 of that Schedule when a delegation order is in force.

(3) The regulations may—

- (a) except any function from the effect of the delegation order,
- (b) modify any of the provisions mentioned in paragraph (2), and
- (c) impose such duties on the body established by the delegation order, the Department and Director General of Fair Trading as appear to the Department to be appropriate.

(4) The regulations shall contain such provision as appears to the Department to be necessary or expedient for reserving to it the decision—

- (a) to refuse recognition on the ground mentioned in paragraph 1(3) of that Schedule, or
- (b) to exercise the powers conferred by paragraph 6 of that Schedule.

- (5) For that purpose the regulations may—
- (a) prohibit the body from granting a recognition order without the leave of the Department, and
 - (b) empower the Department to direct the body to exercise its powers in such manner as may be specified in the direction.
- (6) Regulations under this Article shall be subject to negative resolution.

Exemption from liability for damages

50.—(1) Neither a recognised supervisory body, nor any of its officers or employees or members of its governing body, shall be liable in damages for anything done or omitted in the discharge or purported discharge of functions to which this paragraph applies, unless the act or omission is shown to have been in bad faith.

(2) Paragraph (1) applies to the functions of the body so far as relating to, or to matters arising out of—

- (a) such rules, practices, powers and arrangements of the body to which the requirements of Part II of Schedule 11 apply, or
- (b) the obligations with which paragraph 16 of that Schedule requires the body to comply,
- (c) any guidance issued by the body, or
- (d) the obligations to which the body is subject by virtue of this Part.

(3) Neither a body established by a delegation order, nor any of its members, officers or employees, shall be liable in damages for anything done or omitted in the discharge or purported discharge of the functions exercisable by virtue of an order under Article 48, unless the act or omission is shown to have been in bad faith.

Service of notices

51.—(1) This Article has effect in relation to any notice, direction or other document required or authorised by or under this Part to be given to or served on any person other than the Department.

(2) Any such document may be given to or served on the person in question—

- (a) by delivering it to him,
- (b) by leaving it at his proper address, or
- (c) by sending it by post to him at that address.

(3) Any such document may—

- (a) in the case of a body corporate, be given to or served on the secretary or clerk of that body;
- (b) in the case of a partnership, be given to or served on any partner;
- (c) in the case of an unincorporated association other than a

partnership, be given to or served on any member of the governing body of the association.

(4) For the purposes of this Article, section 24(1) of the Interpretation Act (Northern Ireland) 1954 applies with the omission of the word "registering" and the substitution of the words "proper address" for the words "usual or last known place of abode or business".

1954 c. 33 (N.I.)

(5) For the purposes of this Article and section 24(1) of the Interpretation Act (Northern Ireland) 1954 (service of documents by post) in its application to this Article, the proper address of any person is his last known address (whether of his residence or of a place where he carries on business or is employed) and also—

- (a) in the case of a person who is eligible under the rules of a recognised supervisory body for appointment as company auditor and who does not have a place of business in the United Kingdom, the address of that body;
- (b) in the case of a body corporate, its secretary or its clerk, the address of its registered or principal office in the United Kingdom;
- (c) in the case of an unincorporated association (other than a partnership) or a member of its governing body, its principal office in the United Kingdom.

Power to make consequential amendments

52.—(1) The Department may by regulations make such amendments of statutory provisions as appear to it to be necessary or expedient in consequence of the provisions of this Part having effect in place of Article 397 of the 1986 Order.

(2) That power extends to making such amendments as appear to the Department necessary or expedient of—

- (a) statutory provisions referring by name to the bodies of accountants recognised for the purposes of Article 397(1)(a) of the 1986 Order, and
 - (b) statutory provisions making with respect to other statutory auditors provision as to the matters dealt with in relation to company auditors by Article 397 of the 1986 Order.
- (3) The provision which may be made with respect to other statutory auditors includes provision as to—
- (a) eligibility for the appointment,
 - (b) the effect of appointing a partnership which is not a legal person and the manner of exercise of the auditor's rights in such a case, and
 - (c) ineligibility on the ground of lack of independence or any other ground.
- (4) The regulations may contain such supplementary, incidental

and transitional provision as appears to the Department to be necessary or expedient.

(5) The Department shall not make regulations under this Article with respect to any statutory auditors without the consent of—

- (a) the Department responsible for their appointment or responsible for the body or person by, or in relation to whom, they are appointed, or
- (b) if there is no such Department, the person by whom they are appointed.

(6) In this Article a “statutory auditor” means a person appointed auditor in pursuance of any statutory provision authorising or requiring the appointment of an auditor or auditors.

(7) Regulations under this Article shall be subject to negative resolution.

*Power to make provision in consequence of changes affecting
accountancy bodies*

53.—(1) The Department may by regulations make such amendments of statutory provisions as appear to it to be necessary or expedient in consequence of any change of name, merger or transfer of engagements affecting—

- (a) a recognised supervisory or qualifying body under this Part, or
- (b) a body of accountants referred to in, or approved, authorised or otherwise recognised for the purposes of, any other statutory provision.

(2) Regulations under this Article shall be subject to negative resolution.

Meaning of “associate”

54.—(1) In this Part “associate”, in relation to a person, shall be construed as follows.

(2) In relation to an individual “associate” means—

- (a) that individual’s spouse or minor child or step-child,
- (b) any body corporate of which that individual is a director, and
- (c) any employee or partner of that individual.

(3) In relation to a body corporate “associate” means—

- (a) any body corporate of which that body is a director,
- (b) any body corporate in the same group as that body, and
- (c) any employee or partner of that body or of any body corporate in the same group.

(4) In relation to a Scottish firm, or a partnership constituted under

the law of any other country or territory in which a partnership is a legal person, "associate" means—

- (a) any body corporate of which the firm is a director,
- (b) any employee of or partner in the firm, and
- (c) any person who is an associate of a partner in the firm.

(5) In relation to a partnership constituted under the law of England and Wales or Northern Ireland, or the law of any other country or territory in which a partnership is not a legal person, "associate" means any person who is an associate of any of the partners.

Minor definitions

55.—(1) In this Part—

"address" means—

- (a) in relation to an individual, his usual residential or business address, and
- (b) in relation to a firm, its registered or principal office in Northern Ireland;

"company" means any company or other body to which Article 392 of the 1986 Order (duty to appoint auditors) applies;

"director", in relation to a body corporate, includes any person occupying in relation to it the position of a director (by whatever name called) and any person in accordance with whose directions or instructions (not being advice given in a professional capacity) the directors of the body are accustomed to act;

"firm" means a body corporate or a partnership;

"group", in relation to a body corporate, means the body corporate, any other body corporate which is its holding company or subsidiary and any other body corporate which is a subsidiary of that holding company;

"holding company" and "subsidiary" have the meaning given by Article 4 of the 1986 Order;

"parent undertaking" and "subsidiary undertaking" have the same meaning as in Part VIII of the 1986 Order.

(2) For the purposes of this Part a body shall be regarded as "established in the United Kingdom" if and only if—

- (a) it is incorporated or formed under the law of the United Kingdom or a part of the United Kingdom, or
- (b) its central management and control is exercised in the United Kingdom;

and any reference to a qualification "obtained in the United Kingdom" is to a qualification obtained from such a body.

Index of defined expressions

56. The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used only in the same Article)—

address	Article 55(1)
appropriate qualification	Article 34
associate	Article 54
company	Article 55(1)
company auditor, company audit and company audit work	Article 27(2)
delegation order	Article 48
director (of a body corporate)	Article 55(1)
Director (in Schedule 14)	paragraph 1(1) of that Schedule
established in the United Kingdom	Article 55(2)
firm	Article 55(1)
group (in relation to a body corporate)	Article 55(1)
guidance	
—of a qualifying body	Article 35(3)
—of a supervisory body	Article 33(4)
holding company	Article 55(1)
member (of a supervisory body)	Article 33(2)
obtained in the United Kingdom	Article 55(2)
parent undertaking	Article 55(1)
purposes of this Part	Article 27(1)
qualifying body	Article 35(1)
recognised	
—in relation to a professional qualification	Article 35(4) and Schedule 12
—in relation to a qualifying body	paragraph 2(1) of Schedule 12
—in relation to a supervisory body	Article 33(5) and Schedule 11
rules	
—of a qualifying body	Article 35(2)
—of a supervisory body	Article 33(3)
subsidiary and subsidiary undertaking	Article 55(1)
supervisory body	Article 33(1)

Repeals consequential on Part III

57. The statutory provisions set out in Part II of Schedule 15 are hereby repealed to the extent specified in the third column of that Part, being repeals consequential on this Part.

G. I. de Deney
Clerk of the Privy Council

SCHEDULES

Article 6(2).

SCHEDULE 1

FORM AND CONTENT OF COMPANY ACCOUNTS

1. Schedule 4 to the 1986 Order (form and content of company accounts) is amended as follows.

Group undertakings

2.—(1) For “group companies”, wherever occurring, substitute “group undertakings”.

(2) That expression occurs—

(a) in Balance Sheet Format 1, in Items B.III.1 and 2, C.II.2, C.III.1, E.6 and H.6;

(b) in Balance Sheet Format 2—

(i) under the heading “ASSETS”, in Items B.III.1 and 2, C.II.2 and C.III.1;

(ii) under the heading “LIABILITIES”, in Item C.6;

(c) in the Profit and Loss Accounts Formats—

(i) in Format 1, Item 7;

(ii) in Format 2, Item 9;

(iii) in Format 3, Item B.3;

(iv) in Format 4, Item B.5;

(d) in Notes (15) and (16) to the profit and loss account formats; and

(e) in the second sentence of paragraph 53(2) (exclusion from requirement to state separately certain loans).

Participating interests

3.—(1) For “shares in related companies”, wherever occurring, substitute “participating interests”.

(2) That expression occurs—

(a) in Balance Sheet Format 1, Item B.III.3;

(b) in Balance Sheet Format 2, under the heading “ASSETS”, in Item B.III.3;

(c) in the Profit and Loss Accounts Formats—

(i) in Format 1, Item 8;

(ii) in Format 2, Item 10;

(iii) in Format 3, Item B.4;

(iv) in Format 4, Item B.6.

4.—(1) For “related companies”, wherever occurring in any other context, substitute “undertakings in which the company has a participating interest”.

(2) Those contexts are—

(a) in Balance Sheet Format 1, in Items B.III.4, C.II.3, E.7 and H.7;

(b) in Balance Sheet Format 2—

(i) under the heading “ASSETS”, in Items B.III.4 and C.II.3;

(ii) under the heading “LIABILITIES”, in Item C.7.

Consistency of accounting policies

5. For paragraph 11 (consistency of accounting policy from one year to the next) substitute—

“11. Accounting policies shall be applied consistently within the same accounts and from one financial year to the next.”.

Revaluation reserve

6. In paragraph 34 (revaluation reserve), for sub-paragraph (3) (circumstances in which reduction of reserve required or permitted) substitute—

“(3) An amount may be transferred from the revaluation reserve—

(a) to the profit and loss account, if the amount was previously charged to that account or represents realised profit, or

(b) on capitalisation;

and the revaluation reserve shall be reduced to the extent that the amounts transferred to it are no longer necessary for the purposes of the valuation method used.

(3A) In sub-paragraph (3)(b) “capitalisation”, in relation to an amount standing to the credit of the revaluation reserve, means applying it in wholly or partly paying up unissued shares in the company to be allotted to members of the company as fully or partly paid shares.

(3B) The revaluation reserve shall not be reduced except as mentioned in this paragraph.”.

Compliance with accounting standards

7. After paragraph 36 (disclosure of accounting policies) insert—

“36A. It shall be stated whether the accounts have been prepared in accordance with applicable accounting standards and particulars of any material departure from those standards and the reasons for it shall be given.”.

Provision for taxation

8. For paragraph 47 (provision for taxation) substitute—

“47. The amount of any provision for deferred taxation shall be stated separately from the amount of any provision for other taxation.”.

Loans in connection with assistance for purchase of company's own shares

9. In paragraph 51(2) (disclosure of outstanding loans in connection with certain cases of financial assistance for purchase of company's own shares), after “163(4)(b)” insert “, (bb)”.

Obligation to show corresponding amounts for previous financial year

10. In paragraph 58(3) (exceptions from obligation to show corresponding amount for previous financial year), for heads (a) to (c) substitute—

“(a) paragraph 13 of Schedule 4A (details of accounting treatment of acquisitions),

(b) paragraphs 2, 8(3), 16, 21(1)(d), 22(4) and (5), 24(3) and (4) and 27(3) and (4) of Schedule 5 (shareholdings in other undertakings),

(c) Parts II and III of Schedule 6 (loans and other dealings in favour

of directors and others), and
(d) paragraphs 42 and 46 (fixed assets and reserves and provisions).”.

Special provisions where company is parent company or subsidiary undertaking

11.—(1) For the heading to Part IV (special provisions where the company is a holding or subsidiary company) substitute—

“PART IV

**SPECIAL PROVISIONS WHERE COMPANY IS A PARENT COMPANY OR
SUBSIDIARY UNDERTAKING”.**

(2) In that Part for paragraph 59 substitute—

“Dealings with or interests in group undertakings

59. Where a company is a parent company or a subsidiary undertaking and any item required by Part I of this Schedule to be shown in the company’s balance sheet in relation to group undertakings includes—

(a) amounts attributable to dealings with or interests in any parent undertaking or fellow subsidiary undertaking, or

(b) amounts attributable to dealings with or interests in any subsidiary undertaking of the company,

the aggregate amounts within heads (a) and (b) respectively shall be shown as separate items, either by way of subdivision of the relevant item in the balance sheet or in a note to the company’s accounts.”.

(3) After that paragraph insert—

“Guarantees and other financial commitments in favour of group undertakings

59A. Commitments within any of sub-paragraphs (1) to (5) of paragraph 50 (guarantees and other financial commitments) which are undertaken on behalf of or for the benefit of—

(a) any parent undertaking or fellow subsidiary undertaking, or

(b) any subsidiary undertaking of the company,

shall be stated separately from the other commitments within that sub-paragraph, and commitments within head (a) shall also be stated separately from those within head (b).”.

Article 7(2).

SCHEDULE 2

**[SCHEDULE 4A TO THE 1986 ORDER]
FORM AND CONTENT OF GROUP ACCOUNTS**

General rules

1.—(1) Group accounts shall comply so far as practicable with the provisions of Schedule 4 as if the undertakings included in the consolidation (“the group”) were a single company.

(2) In particular, for the purposes of paragraph 59 of that Schedule (dealings with or interests in group undertakings) as it applies to group accounts—

- (a) any subsidiary undertakings of the parent company not included in the consolidation shall be treated as subsidiary undertakings of the group, and
- (b) if the parent company is itself a subsidiary undertaking, the group shall be treated as a subsidiary undertaking of any parent undertaking of that company, and the reference to fellow-subsidiary undertakings shall be construed accordingly.

(3) Where the parent company is treated as an investment company for the purposes of Part V of that Schedule (special provisions for investment companies) the group shall be similarly treated.

2.—(1) The consolidated balance sheet and profit and loss account shall incorporate in full the information contained in the individual accounts of the undertakings included in the consolidation, subject to the adjustments authorised or required by the following provisions of this Schedule and to such other adjustments (if any) as may be appropriate in accordance with generally accepted accounting principles or practice.

(2) If the financial year of a subsidiary undertaking included in the consolidation differs from that of the parent company, the group accounts shall be made up—

- (a) from the accounts of the subsidiary undertaking for its financial year last ending before the end of the parent company's financial year, provided that year ended no more than 3 months before that of the parent company, or
- (b) from interim accounts prepared by the subsidiary undertaking as at the end of the parent company's financial year.

3.—(1) Where assets and liabilities to be included in the group accounts have been valued or otherwise determined by undertakings according to accounting rules differing from those used for the group accounts, the values or amounts shall be adjusted so as to accord with the rules used for the group accounts.

(2) If it appears to the directors of the parent company that there are special reasons for departing from sub-paragraph (1) they may do so, but particulars of any such departure, the reasons for it and its effect shall be given in a note to the accounts.

(3) The adjustments referred to in this paragraph need not be made if they are not material for the purpose of giving a true and fair view.

4. Any differences of accounting rules as between a parent company's individual accounts for a financial year and its group accounts shall be disclosed in a note to the latter accounts and the reasons for the difference given.

5. Amounts which in the particular context of any provision of this Schedule are not material may be disregarded for the purposes of that provision.

Elimination of group transactions

6.—(1) Debts and claims between undertakings included in the consolidation, and income and expenditure relating to transactions between such undertakings, shall be eliminated in preparing the group accounts.

(2) Where profits and losses resulting from transactions between undertakings included in the consolidation are included in the book value of assets,

they shall be eliminated in preparing the group accounts.

(3) The elimination required by sub-paragraph (2) may be effected in proportion to the group's interest in the shares of the undertakings.

(4) Sub-paragraphs (1) and (2) need not be complied with if the amounts concerned are not material for the purpose of giving a true and fair view.

Acquisition and merger accounting

7.—(1) The following provisions apply where an undertaking becomes a subsidiary undertaking of the parent company.

(2) That event is referred to in those provisions as an “acquisition”, and references to the “undertaking acquired” shall be construed accordingly.

8. An acquisition shall be accounted for by the acquisition method of accounting unless the conditions for accounting for it as a merger are met and the merger method of accounting is adopted.

9.—(1) The acquisition method of accounting is as follows.

(2) The identifiable assets and liabilities of the undertaking acquired shall be included in the consolidated balance sheet at their fair values as at the date of acquisition.

In this paragraph the “identifiable” assets or liabilities of the undertaking acquired means the assets or liabilities which are capable of being disposed of or discharged separately, without disposing of a business of the undertaking.

(3) The income and expenditure of the undertaking acquired shall be brought into the group accounts only as from the date of the acquisition.

(4) There shall be set off against the acquisition cost of the interest in the shares of the undertaking held by the parent company and its subsidiary undertakings the interest of the parent company and its subsidiary undertakings in the adjusted capital and reserves of the undertaking acquired.

For this purpose—

“the acquisition cost” means the amount of any cash consideration and the fair value of any other consideration, together with such amount (if any) in respect of fees and other expenses of the acquisition as the company may determine, and

“the adjusted capital and reserves” of the undertaking acquired means its capital and reserves at the date of the acquisition after adjusting the identifiable assets and liabilities of the undertaking to fair values as at that date.

(5) The resulting amount if positive shall be treated as goodwill, and if negative as a negative consolidation difference.

10.—(1) The conditions for accounting for an acquisition as a merger are—

(a) that at least 90 per cent. of the nominal value of the relevant shares in the undertaking acquired is held by or on behalf of the parent company and its subsidiary undertakings,

(b) that the proportion referred to in head (a) was attained pursuant to an arrangement providing for the issue of equity shares by the parent company or one or more of its subsidiary undertakings,

(c) that the fair value of any consideration other than the issue of equity shares given pursuant to the arrangement by the parent company and its subsidiary undertakings did not exceed 10 per cent. of the

nominal value of the equity shares issued, and

(d) that adoption of the merger method of accounting accords with generally accepted accounting principles or practice.

(2) The reference in sub-paragraph (1)(a) to the "relevant shares" in an undertaking acquired is to those carrying unrestricted rights to participate both in distributions and in the assets of the undertaking upon liquidation.

11.—(1) The merger method of accounting is as follows.

(2) The assets and liabilities of the undertaking acquired shall be brought into the group accounts at the figures at which they stand in the undertaking's accounts, subject to any adjustment authorised or required by this Schedule.

(3) The income and expenditure of the undertaking acquired shall be included in the group accounts for the entire financial year, including the period before the acquisition.

(4) The group accounts shall show corresponding amounts relating to the previous financial year as if the undertaking acquired had been included in the consolidation throughout that year.

(5) There shall be set off against the aggregate of—

(a) the appropriate amount in respect of qualifying shares issued by the parent company or its subsidiary undertakings in consideration for the acquisition of shares in the undertaking acquired, and

(b) the fair value of any other consideration for the acquisition of shares in the undertaking acquired, determined as at the date when those shares were acquired,

the nominal value of the issued share capital of the undertaking acquired held by the parent company and its subsidiary undertakings.

(6) The resulting amount shall be shown as an adjustment to the consolidated reserves.

(7) In sub-paragraph (5)(a) "qualifying shares" means—

(a) shares in relation to which Article 141 (merger relief) applies, in respect of which the appropriate amount is the nominal value; or

(b) shares in relation to which Article 142 (relief in respect of group reconstructions) applies, in respect of which the appropriate amount is the nominal value together with any minimum premium value within the meaning of that Article.

12.—(1) Where a group is acquired, paragraphs 9 to 11 apply with the following adaptations.

(2) References to shares of the undertaking acquired shall be construed as references to shares of the parent undertaking of the group.

(3) Other references to the undertaking acquired shall be construed as references to the group; and references to the assets and liabilities, income and expenditure and capital and reserves of the undertaking acquired shall be construed as references to the assets and liabilities, income and expenditure and capital and reserves of the group after making the set-offs and other adjustments required by this Schedule in the case of group accounts.

13.—(1) The following information with respect to acquisitions taking place in the financial year shall be given in a note to the accounts.

(2) There shall be stated—

- (a) the name of the undertaking acquired or, where a group was acquired, the name of the parent undertaking of that group, and
- (b) whether the acquisition has been accounted for by the acquisition or the merger method of accounting;

and in relation to an acquisition which significantly affects the figures shown in the group accounts, the following further information shall be given.

(3) The composition and fair value of the consideration for the acquisition given by the parent company and its subsidiary undertakings shall be stated.

(4) The profit or loss of the undertaking or group acquired shall be stated—

- (a) for the period from the beginning of the financial year of the undertaking or, as the case may be, of the parent undertaking of the group, up to the date of the acquisition, and
- (b) for the previous financial year of that undertaking or parent undertaking;

and there shall also be stated the date on which the financial year referred to in head (a) began.

(5) Where the acquisition method of accounting has been adopted, the book values immediately prior to the acquisition, and the fair values at the date of acquisition, of each class of assets and liabilities of the undertaking or group acquired shall be stated in tabular form, including a statement of the amount of any goodwill or negative consolidation difference arising on the acquisition, together with an explanation of any significant adjustments made.

(6) Where the merger method of accounting has been adopted, an explanation shall be given of any significant adjustments made in relation to the amounts of the assets and liabilities of the undertaking or group acquired, together with a statement of any resulting adjustment to the consolidated reserves (including the restatement of opening consolidated reserves).

(7) In ascertaining for the purposes of sub-paragraph (4), (5) or (6) the profit or loss of a group, the book values and fair values of assets and liabilities of a group or the amount of the assets and liabilities of a group, the set-offs and other adjustments required by this Schedule in the case of group accounts shall be made.

14.—(1) There shall also be stated in a note to the accounts the cumulative amount of goodwill resulting from acquisitions in that and earlier financial years which has been written off.

(2) That figure shall be shown net of any goodwill attributable to subsidiary undertakings or businesses disposed of prior to the balance sheet date.

15. Where during the financial year there has been a disposal of an undertaking or group which significantly affects the figures shown in the group accounts, there shall be stated in a note to the accounts—

- (a) the name of that undertaking or, as the case may be, of the parent undertaking of that group, and
- (b) the extent to which the profit or loss shown in the group accounts is attributable to profit or loss of that undertaking or group.

16. The information required by paragraph 13, 14 or 15 need not be disclosed with respect to an undertaking which—

(a) is established under the law of a country outside the United Kingdom, or

(b) carries on business outside the United Kingdom,

if in the opinion of the directors of the parent company the disclosure would be seriously prejudicial to the business of that undertaking or to the business of the parent company or any of its subsidiary undertakings and the Department agrees that the information should not be disclosed.

Minority interests

17.—(1) The formats set out in Schedule 4 have effect in relation to group accounts with the following additions.

(2) In the Balance Sheet Formats a further item headed “Minority interests” shall be added—

(a) in Format 1, either after item J or at the end (after item K), and

(b) in Format 2, under the general heading “LIABILITIES”, between items A and B;

and under that item shall be shown the amount of capital and reserves attributable to shares in subsidiary undertakings included in the consolidation held by or on behalf of persons other than the parent company and its subsidiary undertakings.

(3) In the Profit and Loss Account Formats a further item headed “Minority interests” shall be added—

(a) in Format 1, between items 14 and 15,

(b) in Format 2, between items 16 and 17,

(c) in Format 3, between items 7 and 8 in both sections A and B, and

(d) in Format 4, between items 9 and 10 in both sections A and B;

and under that item shall be shown the amount of any profit or loss on ordinary activities attributable to shares in subsidiary undertakings included in the consolidation held by or on behalf of persons other than the parent company and its subsidiary undertakings.

(4) In the Profit and Loss Account Formats a further item headed “Minority interests” shall be added—

(a) in Format 1, between items 18 and 19,

(b) in Format 2, between items 20 and 21,

(c) in Format 3, between items 9 and 10 in section A and between items 8 and 9 in section B, and

(d) in Format 4, between items 11 and 12 in section A and between items 10 and 11 in section B;

and under that item shall be shown the amount of any profit or loss on extraordinary activities attributable to shares in subsidiary undertakings included in the consolidation held by or on behalf of persons other than the parent company and its subsidiary undertakings.

(5) For the purposes of paragraph 3(3) and (4) of Schedule 4 (power to adapt or combine items)—

(a) the additional item required by sub-paragraph (2) shall be treated as one to which a letter is assigned, and

(b) the additional items required by sub-paragraphs (3) and (4) shall be treated as ones to which an Arabic number is assigned.

Interests in subsidiary undertakings excluded from consolidation

18. The interest of the group in subsidiary undertakings excluded from consolidation under Article 237(4) (undertakings with activities different from those of undertakings included in the consolidation), and the amount of profit or loss attributable to such an interest, shall be shown in the consolidated balance sheet or, as the case may be, in the consolidated profit and loss account by the equity method of accounting (including dealing with any goodwill arising in accordance with paragraphs 17 to 19 and 21 of Schedule 4).

Joint ventures

19.—(1) Where an undertaking included in the consolidation manages another undertaking jointly with one or more undertakings not included in the consolidation, that other undertaking (“the joint venture”) may, if it is not—

(a) a body corporate, or

(b) a subsidiary undertaking of the parent company,

be dealt with in the group accounts by the method of proportional consolidation.

(2) The provisions of this Part relating to the preparation of consolidated accounts apply, with any necessary modifications, to proportional consolidation under this paragraph.

Associated undertakings

20.—(1) An “associated undertaking” means an undertaking in which an undertaking included in the consolidation has a participating interest and over whose operating and financial policy it exercises a significant influence, and which is not—

(a) a subsidiary undertaking of the parent company, or

(b) a joint venture dealt with in accordance with paragraph 19.

(2) Where an undertaking holds 20 per cent. or more of the voting rights in another undertaking, it shall be presumed to exercise such an influence over it unless the contrary is shown.

(3) The voting rights in an undertaking means the rights conferred on shareholders in respect of their shares or, in the case of an undertaking not having a share capital, on members, to vote at general meetings of the undertaking on all, or substantially all, matters.

(4) The provisions of paragraphs 5 to 11 of Schedule 10A (rights to be taken into account and attribution of rights) apply in determining for the purposes of this paragraph whether an undertaking holds 20 per cent. or more of the voting rights in another undertaking.

21.—(1) The formats set out in Schedule 4 have effect in relation to group accounts with the following modifications.

(2) In the Balance Sheet Formats the items headed “Participating interests”, that is—

(a) in Format 1, item B.III.3, and

(b) in Format 2, item B.III.3 under the heading “ASSETS”,

shall be replaced by two items, "Interests in associated undertakings" and "Other participating interests".

(3) In the Profit and Loss Account Formats, the items headed "Income from participating interests", that is—

- (a) in Format 1, item 8,
- (b) in Format 2, item 10,
- (c) in Format 3, item B.4, and
- (d) in Format 4, item B.6,

shall be replaced by two items, "Income from interests in associated undertakings" and "Income from other participating interests".

22.—(1) The interest of an undertaking in an associated undertaking, and the amount of profit or loss attributable to such an interest, shall be shown by the equity method of accounting (including dealing with any goodwill arising in accordance with paragraphs 17 to 19 and 21 of Schedule 4).

(2) Where the associated undertaking is itself a parent undertaking, the net assets and profits or losses to be taken into account are those of the parent and its subsidiary undertakings (after making any consolidation adjustments).

(3) The equity method of accounting need not be applied if the amounts in question are not material for the purpose of giving a true and fair view.

SCHEDULE 3

Article 8(2).

[SCHEDULE 5 TO THE 1986 ORDER]

DISCLOSURE OF INFORMATION: RELATED UNDERTAKINGS

PART I

COMPANIES NOT REQUIRED TO PREPARE GROUP ACCOUNTS

Subsidiary undertakings

1.—(1) The following information shall be given where at the end of the financial year the company has subsidiary undertakings.

(2) The name of each subsidiary undertaking shall be stated.

(3) There shall be stated with respect to each subsidiary undertaking—

- (a) if it is incorporated outside Northern Ireland, the country in which it is incorporated;
- (b) if it is unincorporated, the address of its principal place of business.

(4) The reason why the company is not required to prepare group accounts shall be stated.

(5) If the reason is that all the subsidiary undertakings of the company fall within the exclusions provided for in Article 237, it shall be stated with respect to each subsidiary undertaking which of those exclusions applies.

Holdings in subsidiary undertakings

2.—(1) There shall be stated in relation to shares of each class held by the company in a subsidiary undertaking—

- (a) the identity of the class, and
- (b) the proportion of the nominal value of the shares of that class represented by those shares.

(2) The shares held by or on behalf of the company itself shall be distinguished from those attributed to the company which are held by or on behalf of a subsidiary undertaking.

Financial information about subsidiary undertakings

3.—(1) There shall be disclosed with respect to each subsidiary undertaking—

- (a) the aggregate amount of its capital and reserves as at the end of its relevant financial year, and
- (b) its profit or loss for that year.

(2) That information need not be given if the company is exempt by virtue of Article 236 from the requirement to prepare group accounts (parent company included in accounts of larger group).

(3) That information need not be given if—

- (a) the subsidiary undertaking is not required by any provision of this Order to deliver a copy of its balance sheet for its relevant financial year and does not otherwise publish that balance sheet in Northern Ireland or elsewhere, and
- (b) the company's holding is less than 50 per cent. of the nominal value of the shares in the undertaking.

(4) Information otherwise required by this paragraph need not be given if it is not material.

(5) For the purposes of this paragraph the "relevant financial year" of a subsidiary undertaking is—

- (a) if its financial year ends with that of the company, that year, and
- (b) if not, its financial year ending last before the end of the company's financial year.

Financial years of subsidiary undertakings

4. Where the financial year of one or more subsidiary undertakings did not end with that of the company, there shall be stated in relation to each such undertaking—

- (a) the reasons why the company's directors consider that its financial year should not end with that of the company, and
- (b) the date on which its last financial year ended (last before the end of the company's financial year).

Instead of the dates required by sub-paragraph (b) being given for each subsidiary undertaking the earliest and latest of those dates may be given.

Further information about subsidiary undertakings

5.—(1) There shall be disclosed—

- (a) any qualifications contained in the auditors' reports on the accounts of subsidiary undertakings for financial years ending with or during the financial year of the company, and
- (b) any note or saving contained in such accounts to call attention to a matter which, apart from the note or saving, would properly have been referred to in such a qualification,

in so far as the matter which is the subject of the qualification or note is not covered by the company's own accounts and is material from the point of view of its members.

(2) The aggregate amount of the total investment of the company in the shares of subsidiary undertakings shall be stated by way of the equity method of valuation, unless—

- (a) the company is exempt from the requirement to prepare group accounts by virtue of Article 236 (parent company included in accounts of larger group), and
- (b) the directors state their opinion that the aggregate value of the assets of the company consisting of shares in, or amounts owing (whether on account of a loan or otherwise) from, the company's subsidiary undertakings is not less than the aggregate of the amounts at which those assets are stated or included in the company's balance sheet.

(3) In so far as information required by this paragraph is not obtainable, a statement to that effect shall be given instead.

Shares and debentures of company held by subsidiary undertakings

6.—(1) The number, description and amount of the shares in and debentures of the company held by or on behalf of its subsidiary undertakings shall be disclosed.

(2) Sub-paragraph (1) does not apply in relation to shares or debentures in the case of which the subsidiary undertaking is concerned as personal representative or, subject as follows, as trustee.

(3) The exception for shares or debentures in relation to which the subsidiary undertaking is concerned as trustee does not apply if the company, or any subsidiary undertaking of the company, is beneficially interested under the trust, otherwise than by way of security only for the purposes of a transaction entered into by it in the ordinary course of a business which includes the lending of money.

(4) Schedule 2 has effect for the interpretation of the reference in sub-paragraph (3) to a beneficial interest under a trust.

Significant holdings in undertakings other than subsidiary undertakings

7.—(1) The information required by paragraphs 8 and 9 shall be given where at the end of the financial year the company has a significant holding in an undertaking which is not a subsidiary undertaking of the company.

(2) A holding is significant for this purpose if—

- (a) it amounts to 10 per cent. or more of the nominal value of any class of shares in the undertaking, or
- (b) the amount of the holding (as stated or included in the company's accounts) exceeds one-tenth of the amount (as so stated) of the company's assets.

8.—(1) The name of the undertaking shall be stated.

(2) There shall be stated—

- (a) if the undertaking is incorporated outside Northern Ireland, the country in which it is incorporated;
- (b) if it is unincorporated, the address of its principal place of business.

(3) There shall also be stated—

- (a) the identity of each class of shares in the undertaking held by the company, and
- (b) the proportion of the nominal value of the shares of that class represented by those shares.

9.—(1) Where the company has a significant holding in an undertaking amounting to 20 per cent. or more of the nominal value of the shares in the undertaking, there shall also be stated—

- (a) the aggregate amount of the capital and reserves of the undertaking as at the end of its relevant financial year, and
 - (b) its profit or loss for that year.
- (2) That information need not be given if—
- (a) the company is exempt by virtue of Article 236 from the requirement to prepare group accounts (parent company included in accounts of larger group), and
 - (b) the investment of the company in all undertakings in which it has such a holding as is mentioned in sub-paragraph (1) is shown, in aggregate, in the notes to the accounts by way of the equity method of valuation.
- (3) That information need not be given in respect of an undertaking if—
- (a) the undertaking is not required by any provision of this Order to deliver a copy of its balance sheet for its relevant financial year and does not otherwise publish that balance sheet in Northern Ireland or elsewhere, and
 - (b) the company's holding is less than 50 per cent. of the nominal value of the shares in the undertaking.
- (4) Information otherwise required by this paragraph need not be given if it is not material.
- (5) For the purposes of this paragraph the "relevant financial year" of an undertaking is—
- (a) if its financial year ends with that of the company, that year, and
 - (b) if not, its financial year ending last before the end of the company's financial year.

Arrangements attracting merger relief

10.—(1) This paragraph applies to arrangements attracting merger relief, that is, where a company allots shares in consideration for the issue, transfer or cancellation of shares in another body corporate ("the other company") in circumstances such that Article 140 (share premium account) does not, by virtue of Article 141(2) (merger relief), apply to the premiums on the shares.

(2) If the company makes such an arrangement during the financial year, the following information shall be given—

- (a) the name of the other company,
 - (b) the number, nominal value and class of shares allotted,
 - (c) the number, nominal value and class of shares in the other company issued, transferred or cancelled, and
 - (d) particulars of the accounting treatment adopted in the company's accounts in respect of the issue, transfer or cancellation.
- (3) Where the company made such an arrangement during the financial year, or during either of the two preceding financial years, and there is included in the company's profit and loss account—
- (a) any profit or loss realised during the financial year by the company on the disposal of—

- (i) any shares in the other company, or
 - (ii) any assets which were fixed assets of the other company or any of its subsidiary undertakings at the time of the arrangement, or
- (b) any part of any profit or loss realised during the financial year by the company on the disposal of any shares (other than shares in the other company) which was attributable to the fact that there were at the time of the disposal amongst the assets of the company which issued the shares, or any of its subsidiary undertakings, such shares or assets as are described in head (a),

then, the net amount of that profit or loss or, as the case may be, the part so attributable shall be shown, together with an explanation of the transactions to which the information relates.

(4) For the purposes of this paragraph the time of the arrangement shall be taken to be—

- (a) where as a result of the arrangement the other company becomes a subsidiary undertaking of the company, the date on which it does so or, if the arrangement in question becomes binding only on the fulfilment of a condition, the date on which that condition is fulfilled;
- (b) if the other company is already a subsidiary undertaking of the company, the date on which the shares are allotted or, if they are allotted on different days, the first day.

Parent undertaking drawing up accounts for larger group

11.—(1) Where the company is a subsidiary undertaking, the following information shall be given with respect to the parent undertaking of—

- (a) the largest group of undertakings for which group accounts are drawn up and of which the company is a member, and
- (b) the smallest such group of undertakings.

(2) The name of the parent undertaking shall be stated.

(3) There shall be stated—

- (a) if the undertaking is incorporated outside Northern Ireland, the country in which it is incorporated;
- (b) if it is unincorporated, the address of its principal place of business.

(4) If copies of the group accounts referred to in sub-paragraph (1) are available to the public, there shall also be stated the addresses from which copies of the accounts can be obtained.

Identification of ultimate parent company

12.—(1) Where the company is a subsidiary undertaking, the following information shall be given with respect to the company (if any) regarded by the directors as being the company's ultimate parent company.

(2) The name of that company shall be stated.

(3) If known to the directors, there shall be stated, if that company is incorporated outside Northern Ireland, the country in which it is incorporated.

(4) In this paragraph "company" includes any body corporate.

Constructions of references to shares held by company

13.—(1) References in this Part to shares held by a company shall be construed as follows.

- (2) For the purposes of paragraphs 2 to 5 (information about subsidiary undertakings)—
- (a) there shall be attributed to the company any shares held by a subsidiary undertaking, or by a person acting on behalf of the company or a subsidiary undertaking; but
 - (b) there shall be treated as not held by the company any shares held on behalf of a person other than the company or a subsidiary undertaking.
- (3) For the purposes of paragraphs 7 to 9 (information about undertakings other than subsidiary undertakings)—
- (a) there shall be attributed to the company shares held on its behalf by any person; but
 - (b) there shall be treated as not held by a company shares held on behalf of a person other than the company.
- (4) For the purposes of any of those provisions, shares held by way of security shall be treated as held by the person providing the security—
- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights attached to the shares are exercisable only in accordance with his instructions, and
 - (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights attached to the shares are exercisable only in his interests.

PART II

COMPANIES REQUIRED TO PREPARE GROUP ACCOUNTS

Introductory

14. In this Part “the group” means the group consisting of the parent company and its subsidiary undertakings.

Subsidiary undertakings

15.—(1) The following information shall be given with respect to the undertakings which are subsidiary undertakings of the parent company at the end of the financial year.

- (2) The name of each undertaking shall be stated.
- (3) There shall be stated—
 - (a) if the undertaking is incorporated outside Northern Ireland, the country in which it is incorporated;
 - (b) if it is unincorporated, the address of its principal place of business.
- (4) It shall also be stated whether the subsidiary undertaking is included in the consolidation and, if it is not, the reasons for excluding it from consolidation shall be given.
- (5) It shall be stated with respect to each subsidiary undertaking by virtue of which of the conditions specified in Article 266(2) or (4) it is a subsidiary undertaking of its immediate parent undertaking.

That information need not be given if the relevant condition is that specified in paragraph (2)(a) of that Article (holding of a majority of the voting rights) and the immediate parent undertaking holds the same proportion of the shares in the undertaking as it holds voting rights.

Holdings in subsidiary undertakings

16.—(1) The following information shall be given with respect to the shares of a subsidiary undertaking held—

- (a) by the parent company, and
- (b) by the group;

and the information under heads (a) and (b) shall (if different) be shown separately.

(2) There shall be stated—

- (a) the identity of each class of shares held, and
- (b) the proportion of the nominal value of the shares of that class represented by those shares.

Financial information about subsidiary undertakings not included in the consolidation

17.—(1) There shall be shown with respect to each subsidiary undertaking not included in the consolidation—

- (a) the aggregate amount of its capital and reserves as at the end of its relevant financial year, and
- (b) its profit or loss for that year.

(2) That information need not be given if the group's investment in the undertaking is included in the accounts by way of the equity method of valuation or if—

- (a) the undertaking is not required by any provision of this Order to deliver a copy of its balance sheet for its relevant financial year and does not otherwise publish that balance sheet in Northern Ireland or elsewhere, and
- (b) the holding of the group is less than 50 per cent. of the nominal value of the shares in the undertaking.

(3) Information otherwise required by this paragraph need not be given if it is not material.

(4) For the purposes of this paragraph the "relevant financial year" of a subsidiary undertaking is—

- (a) if its financial year ends with that of the company, that year, and
- (b) if not, its financial year ending last before the end of the company's financial year.

Further information about subsidiary undertakings excluded from consolidation

18.—(1) The following information shall be given with respect to subsidiary undertakings excluded from consolidation.

(2) There shall be disclosed—

- (a) any qualifications contained in the auditors' reports on the accounts of the undertaking for financial years ending with or during the financial year of the company, and

(b) any note or saving contained in such accounts to call attention to a matter which, apart from the note or saving, would properly have been referred to in such a qualification,
in so far as the matter which is the subject of the qualification or note is not covered by the consolidated accounts and is material from the point of view of the members of the parent company.

(3) In so far as information required by this paragraph is not obtainable, a statement to that effect shall be given instead.

Financial years of subsidiary undertakings

19. Where the financial year of one or more subsidiary undertakings did not end with that of the company, there shall be stated in relation to each such undertaking—

- (a) the reasons why the company's directors consider that its financial year should not end with that of the company, and
- (b) the date on which its last financial year ended (last before the end of the company's financial year).

Instead of the dates required by sub-paragraph (b) being given for each subsidiary undertaking the earliest and latest of those dates may be given.

Shares and debentures of company held by subsidiary undertakings

20.—(1) The number, description and amount of the shares in and debentures of the company held by or on behalf of its subsidiary undertakings shall be disclosed.

(2) Sub-paragraph (1) does not apply in relation to shares or debentures in the case of which the subsidiary undertaking is concerned as personal representative or, subject as follows, as trustee.

(3) The exception for shares or debentures in relation to which the subsidiary undertaking is concerned as trustee does not apply if the company or any of its subsidiary undertakings is beneficially interested under the trust, otherwise than by way of security only for the purposes of a transaction entered into by it in the ordinary course of a business which includes the lending of money.

(4) Schedule 2 has effect for the interpretation of the reference in sub-paragraph (3) to a beneficial interest under a trust.

Joint ventures

21.—(1) The following information shall be given where an undertaking is dealt with in the consolidated accounts by the method of proportional consolidation in accordance with paragraph 19 of Schedule 4A (joint ventures)—

- (a) the name of the undertaking;
- (b) the address of the principal place of business of the undertaking;
- (c) the factors on which joint management of the undertaking is based; and
- (d) the proportion of the capital of the undertaking held by undertakings included in the consolidation.

(2) Where the financial year of the undertaking did not end with that of the company, there shall be stated the date on which a financial year of the undertaking last ended before that date.

Associated undertakings

- 22.—(1) The following information shall be given where an undertaking included in the consolidation has an interest in an associated undertaking.
- (2) The name of the associated undertaking shall be stated.
- (3) There shall be stated—
- (a) if the undertaking is incorporated outside Northern Ireland, the country in which it is incorporated;
 - (b) if it is unincorporated, the address of its principal place of business.
- (4) The following information shall be given with respect to the shares of the undertaking held—
- (a) by the parent company, and
 - (b) by the group;
- and the information under heads (a) and (b) shall be shown separately.
- (5) There shall be stated—
- (a) the identity of each class of shares held, and
 - (b) the proportion of the nominal value of the shares of that class represented by those shares.
- (6) In this paragraph “associated undertaking” has the meaning given by paragraph 20 of Schedule 4A; and the information required by this paragraph shall be given notwithstanding that paragraph 22(3) of that Schedule (materiality) applies in relation to the accounts themselves.

Other significant holdings of parent company or group

- 23.—(1) The information required by paragraphs 24 and 25 shall be given where at the end of the financial year the parent company has a significant holding in an undertaking which is not one of its subsidiary undertakings and does not fall within paragraph 21 (joint ventures) or paragraph 22 (associated undertakings).
- (2) A holding is significant for this purpose if—
- (a) it amounts to 10 per cent. or more of the nominal value of any class of shares in the undertaking, or
 - (b) the amount of the holding (as stated or included in the company’s individual accounts) exceeds one-tenth of the amount of its assets (as so stated).
- 24.—(1) The name of the undertaking shall be stated.
- (2) There shall be stated—
- (a) if the undertaking is incorporated outside Northern Ireland, the country in which it is incorporated;
 - (b) if it is unincorporated, the address of its principal place of business.
- (3) The following information shall be given with respect to the shares of the undertaking held by the parent company.
- (4) There shall be stated—
- (a) the identity of each class of shares held, and
 - (b) the proportion of the nominal value of the shares of that class represented by those shares.
- 25.—(1) Where the company has a significant holding in an undertaking

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amounting to 20 per cent. or more of the nominal value of the shares in the undertaking, there shall also be stated—

- (a) the aggregate amount of the capital and reserves of the undertaking as at the end of its relevant financial year, and
 - (b) its profit or loss for that year.
- (2) That information need not be given in respect of an undertaking if—
- (a) the undertaking is not required by any provision of this Order to deliver a copy of its balance sheet for its relevant financial year and does not otherwise publish that balance sheet in Northern Ireland or elsewhere, and
 - (b) the company's holding is less than 50 per cent. of the nominal value of the shares in the undertaking.
- (3) Information otherwise required by this paragraph need not be given if it is not material.
- (4) For the purposes of this paragraph the "relevant financial year" of an undertaking is—
- (a) if its financial year ends with that of the company, that year, and
 - (b) if not, its financial year ending last before the end of the company's financial year.

26.—(1) The information required by paragraphs 27 and 28 shall be given where at the end of the financial year the group has a significant holding in an undertaking which is not a subsidiary undertaking of the parent company and does not fall within paragraph 21 (joint ventures) or paragraph 22 (associated undertakings).

- (2) A holding is significant for this purpose if—
- (a) it amounts to 10 per cent. or more of the nominal value of any class of shares in the undertaking, or
 - (b) the amount of the holding (as stated or included in the group accounts) exceeds one-tenth of the amount of the group's assets (as so stated).

27.—(1) The name of the undertaking shall be stated.

- (2) There shall be stated—
- (a) if the undertaking is incorporated outside Northern Ireland, the country in which it is incorporated;
 - (b) if it is unincorporated, the address of its principal place of business.
- (3) The following information shall be given with respect to the shares of the undertaking held by the group.
- (4) There shall be stated—
- (a) the identity of each class of shares held, and
 - (b) the proportion of the nominal value of the shares of that class represented by those shares.

28.—(1) Where the holding of the group amounts to 20 per cent. or more of the nominal value of the shares in the undertaking, there shall also be stated—

- (a) the aggregate amount of the capital and reserves of the undertaking as at the end of its relevant financial year, and

- (b) its profit or loss for that year.
- (2) That information need not be given if—
 - (a) the undertaking is not required by any provision of this Order to deliver a copy of its balance sheet for its relevant financial year and does not otherwise publish that balance sheet in Northern Ireland or elsewhere, and
 - (b) the holding of the group is less than 50 per cent. of the nominal value of the shares in the undertaking.
- (3) Information otherwise required by this paragraph need not be given if it is not material.
- (4) For the purposes of this paragraph the “relevant financial year” of an undertaking is—
 - (a) if its financial year ends with that of the parent company, that year, and
 - (b) if not, its financial year ending last before the end of the parent company’s financial year.

Arrangements attracting merger relief

- 29.—(1) This paragraph applies to arrangements attracting merger relief, that is, where a company allots shares in consideration for the issue, transfer or cancellation of shares in another body corporate (“the other company”) in circumstances such that Article 140 (share premium account) does not, by virtue of Article 141(2) (merger relief), apply to the premiums on the shares.
- (2) If the parent company made such an arrangement during the financial year, the following information shall be given—
 - (a) the name of the other company,
 - (b) the number, nominal value and class of shares allotted,
 - (c) the number, nominal value and class of shares in the other company issued, transferred or cancelled,
 - (d) particulars of the accounting treatment adopted in the parent company’s individual and group accounts in respect of the issue, transfer or cancellation, and
 - (e) particulars of the extent to which and manner in which the profit or loss for the financial year shown in the group accounts is affected by any profit or loss of the other company, or any of its subsidiary undertakings, which arose before the time of the arrangement.
 - (3) Where the parent company made such an arrangement during the financial year, or during either of the two preceding financial years, and there is included in the consolidated profit and loss account—
 - (a) any profit or loss realised during the financial year on the disposal of—
 - (i) any shares in the other company, or
 - (ii) any assets which were fixed assets of the other company or any of its subsidiary undertakings at the time of the arrangement, or
 - (b) any part of any profit or loss realised during the financial year on the disposal of any shares (other than shares in the other company) which was attributable to the fact that there were at the time of the disposal amongst the assets of the company which issued the shares, or any of its subsidiary undertakings, such shares or assets as are described in head (a),

then, the net amount of that profit or loss or, as the case may be, the part so attributable shall be shown, together with an explanation of the transactions to which the information relates.

(4) For the purposes of this paragraph the time of the arrangement shall be taken to be—

- (a) where as a result of the arrangement the other company becomes a subsidiary undertaking of the company in question, the date on which it does so or, if the arrangement in question becomes binding only on the fulfilment of a condition, the date on which that condition is fulfilled;
- (b) if the other company is already a subsidiary undertaking of that company, the date on which the shares are allotted or, if they are allotted on different days, the first day.

Parent undertaking drawing up accounts for larger group

30.—(1) Where the parent company is itself a subsidiary undertaking, the following information shall be given with respect to that parent undertaking of the company which heads—

- (a) the largest group of undertakings for which group accounts are drawn up and of which that company is a member, and
- (b) the smallest such group of undertakings.

(2) The name of the parent undertaking shall be stated.

(3) There shall be stated—

- (a) if the undertaking is incorporated outside Northern Ireland, the country in which it is incorporated;
- (b) if it is unincorporated, the address of its principal place of business.

(4) If copies of the group accounts referred to in sub-paragraph (1) are available to the public, there shall also be stated the addresses from which copies of the accounts can be obtained.

Identification of ultimate parent company

31.—(1) Where the parent company is itself a subsidiary undertaking, the following information shall be given with respect to the company (if any) regarded by the directors as being that company's ultimate parent company.

(2) The name of that company shall be stated.

(3) If known to the directors, there shall be stated, if that company is incorporated outside Northern Ireland, the country in which it is incorporated.

(4) In this paragraph "company" includes any body corporate.

Construction of references to shares held by parent company or group

32.—(1) References in this Part to shares held by the parent company or the group shall be construed as follows.

(2) For the purposes of paragraphs 16, 22(4) and (5) and 23 to 25 (information about holdings in subsidiary and other undertakings)—

- (a) there shall be attributed to the parent company shares held on its behalf by any person; but
- (b) there shall be treated as not held by the parent company shares held on behalf of a person other than the company.

(3) References to shares held by the group are to any shares held by or on behalf of the parent company or any of its subsidiary undertakings; but there shall be treated as not held by the group any shares held on behalf of a person other than the parent company or any of its subsidiary undertakings.

(4) Shares held by way of security shall be treated as held by the person providing the security—

(a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights attached to the shares are exercisable only in accordance with his instructions, and

(b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights attached to the shares are exercisable only in his interests.

SCHEDULE 4

Article 8(4).

DISCLOSURE OF INFORMATION: EMOLUMENTS AND OTHER BENEFITS OF DIRECTORS AND OTHERS

1. Schedule 6 to the 1986 Order is amended as follows.

2. For the heading substitute—

“DISCLOSURE OF INFORMATION: EMOLUMENTS AND OTHER BENEFITS OF DIRECTORS AND OTHERS”.

3. Insert the following provisions (which reproduce, with amendments, the former Part V of Schedule 5 to that Order) as Part I—

“PART I

CHAIRMAN'S AND DIRECTORS' EMOLUMENTS, PENSIONS AND COMPENSATION FOR LOSS OF OFFICE

Aggregate amount of directors' emoluments

1.—(1) The aggregate amount of directors' emoluments shall be shown.

(2) This means the emoluments paid to or receivable by any person in respect of—

(a) his services as a director of the company, or

(b) his services while director of the company—

(i) as director of any of its subsidiary undertakings, or

(ii) otherwise in connection with the management of the affairs of the company or any of its subsidiary undertakings.

(3) There shall also be shown, separately, the aggregate amount within sub-paragraph (2)(a) and (b)(i) and the aggregate amount within sub-paragraph (2)(b)(ii).

(4) For the purposes of this paragraph the “emoluments” of a person include—

(a) fees and percentages,

(b) sums paid by way of expenses allowance (so far as those sums are chargeable to United Kingdom income tax),

- (c) contributions paid in respect of him under any pension scheme, and
 - (d) the estimated money value of any other benefits received by him otherwise than in cash,
- and emoluments in respect of a person's accepting office as director shall be treated as emoluments in respect of his services as director.

Details of chairman's and directors' emoluments

2. Where the company is a parent company or a subsidiary undertaking, or where the amount shown in compliance with paragraph 1(1) is £60,000 or more, the information required by paragraphs 3 to 6 shall be given with respect to the emoluments of the chairman and directors, and emoluments waived.

3.—(1) The emoluments of the chairman shall be shown.

(2) The "chairman" means the person elected by the directors to be chairman of their meetings, and includes a person who, though not so elected, holds an office (however designated) which in accordance with the company's constitution carries with it functions substantially similar to those discharged by a person so elected.

(3) Where there has been more than one chairman during the year, the emoluments of each shall be stated so far as attributable to the period during which he was chairman.

(4) The emoluments of a person need not be shown if his duties as chairman were wholly or mainly discharged outside the United Kingdom.

4.—(1) The following information shall be given with respect to the emoluments of directors.

(2) There shall be shown the number of directors whose emoluments fell within each of the following bands—

- not more than £5,000,
- more than £5,000 but not more than £10,000,
- more than £10,000 but not more than £15,000,
- and so on.

(3) If the emoluments of any of the directors exceeded that of the chairman, there shall be shown the greatest amount of emoluments of any director.

(4) Where more than one person has been chairman during the year, the reference in sub-paragraph (3) to the emoluments of the chairman is to the aggregate of the emoluments of each person who has been chairman, so far as attributable to the period during which he was chairman.

(5) The information required by sub-paragraph (2) need not be given in respect of a director who discharged his duties as such wholly or mainly outside the United Kingdom; and any such director shall be left out of account for the purposes of sub-paragraph (3).

5. In paragraphs 3 and 4 "emoluments" has the same meaning as in paragraph 1, except that it does not include contributions paid in respect of a person under a pension scheme.

Emoluments waived

6.—(1) There shall be shown—

- (a) the number of directors who have waived rights to receive emoluments which, but for the waiver, would have fallen to be included in the amount shown under paragraph 1(1), and
- (b) the aggregate amount of those emoluments.

(2) For the purposes of this paragraph it shall be assumed that a sum not receivable in respect of a period would have been paid at the time at which it was due, and if such a sum was payable only on demand, it shall be deemed to have been due at the time of the waiver.

Pensions of directors and past directors

7.—(1) There shall be shown the aggregate amount of directors' or past directors' pensions.

(2) This amount does not include any pension paid or receivable under a pension scheme if the scheme is such that the contributions under it are substantially adequate for the maintenance of the scheme; but, subject to this, it includes any pension paid or receivable in respect of any such services of a director or past director as are mentioned in paragraph 1(2), whether to or by him or, on his nomination or by virtue of dependence on or other connection with him, to or by any other person.

(3) The amount shown shall distinguish between pensions in respect of services as director, whether of the company or any of its subsidiary undertakings, and other pensions.

(4) References to pensions include benefits otherwise than in cash and in relation to so much of a pension as consists of such a benefit references to its amount are to the estimated money value of the benefit.

The nature of any such benefit shall also be disclosed.

Compensation to directors for loss of office

8.—(1) There shall be shown the aggregate amount of any compensation to directors or past directors in respect of loss of office.

(2) This amount includes compensation received or receivable by a director or past director for—

- (a) loss of office as director of the company, or
- (b) loss, while director of the company or on or in connection with his ceasing to be a director of it, of—
 - (i) any other office in connection with the management of the company's affairs, or
 - (ii) any office as director or otherwise in connection with the management of the affairs of any subsidiary undertaking of the company;

and shall distinguish between compensation in respect of the office of director, whether of the company or any of its subsidiary undertakings, and compensation in respect of other offices.

(3) References to compensation include benefits otherwise than in cash; and in relation to such compensation references to its amount are to the estimated money value of the benefit.

The nature of any such compensation shall be disclosed.

(4) References to compensation for loss of office include compensation in consideration for, or in connection with, a person's retirement from office.

Sums paid to third parties in respect of directors' services

9.—(1) There shall be shown the aggregate amount of any consideration paid to or receivable by third parties for making available the services of any person—

- (a) as a director of the company, or
- (b) while director of the company—
 - (i) as director of any of its subsidiary undertakings, or
 - (ii) otherwise in connection with the management of the affairs of the company or any of its subsidiary undertakings.

(2) The reference to consideration includes benefits otherwise than in cash; and in relation to such consideration the reference to its amount is to the estimated money value of the benefit.

The nature of any such consideration shall be disclosed.

(3) The reference to third parties is to persons other than—

- (a) the director himself or a person connected with him or body corporate controlled by him, and
- (b) the company or any of its subsidiary undertakings.

Supplementary

10.—(1) The following applies with respect to the amounts to be shown under paragraphs 1, 7, 8 and 9.

(2) The amount in each case includes all relevant sums paid by or receivable from—

- (a) the company; and
- (b) the company's subsidiary undertakings; and
- (c) any other person,

except sums to be accounted for to the company or any of its subsidiary undertakings or, by virtue of Articles 322 and 323 (duty of directors to make disclosure on company takeover; consequence of non-compliance), to past or present members of the company or any of its subsidiaries or any class of those members.

(3) The amount to be shown under paragraph 8 shall distinguish between the sums respectively paid by or receivable from the company, the company's subsidiary undertakings and persons other than the company and its subsidiary undertakings.

(4) References to amounts paid to or receivable by a person include amounts paid to or receivable by a person connected with him or a body corporate controlled by him (but not so as to require an amount to be counted twice).

11.—(1) The amounts to be shown for any financial year under paragraphs 1, 7, 8 and 9 are the sums receivable in respect of that year (whenever paid) or, in the case of sums not receivable in respect of a period, the sums paid during that year.

(2) But where—

- (a) any sums are not shown in a note to the accounts for the relevant

financial year on the ground that the person receiving them is liable to account for them as mentioned in paragraph 10(2), but the liability is thereafter wholly or partly released or is not enforced within a period of 2 years; or

- (b) any sums paid by way of expenses allowance are charged to United Kingdom income tax after the end of the relevant financial year,

those sums shall, to the extent to which the liability is released or not enforced or they are charged as mentioned above (as the case may be), be shown in a note to the first accounts in which it is practicable to show them and shall be distinguished from the amounts to be shown apart from this provision.

12. Where it is necessary to do so for the purpose of making any distinction required by the preceding paragraphs in an amount to be shown in compliance with this Part, the directors may apportion any payments between the matters in respect of which these have been paid or are receivable in such manner as they think appropriate.

Interpretation

13.—(1) The following applies for the interpretation of this Part.

(2) A reference to a subsidiary undertaking of the company—

- (a) in relation to a person who is or was, while a director of the company, a director also, by virtue of the company's nomination (direct or indirect) of any other undertaking, includes (subject to the following head) that undertaking, whether or not it is or was in fact a subsidiary undertaking of the company, and
- (b) for the purposes of paragraphs 1 to 7 (including any provision of this Part referring to paragraph 1) is to an undertaking which is a subsidiary undertaking at the time the services were rendered, and for the purposes of paragraph 8 to a subsidiary undertaking immediately before the loss of office as director.

(3) The following definitions apply—

- (a) "pension" includes any superannuation allowance, superannuation gratuity or similar payment,
- (b) "pension scheme" means a scheme for the provision of pensions in respect of services as director or otherwise which is maintained in whole or in part by means of contributions, and
- (c) "contribution", in relation to a pension scheme, means any payment (including an insurance premium) paid for the purposes of the scheme by or in respect of persons rendering services in respect of which pensions will or may become payable under the scheme except that it does not include any payment in respect of two or more persons if the amount paid in respect of each of them is not ascertainable.

(4) References in this Part to a person being "connected" with a director, and to a director "controlling" a body corporate, shall be construed in accordance with Article 354.

Supplementary

14. This Part requires information to be given only so far as it is contained in the company's books and papers or the company has the right to obtain it from the persons concerned."

4.—(1) For the heading to the present Part I substitute—

"PART II

LOANS, QUASI-LOANS AND OTHER DEALINGS IN FAVOUR OF DIRECTORS".

(2) Paragraphs 1 to 3 and 5 to 14 of that Part shall be renumbered 15 to 27, and internal cross-references in that Part shall be renumbered accordingly.

(3) Paragraph 4 is omitted.

(4) In paragraph 1 (renumbered 15) for "Group accounts" substitute "The group accounts of a holding company, or if it is not required to prepare group accounts its individual accounts,".

(5) For the heading before paragraph 11 (renumbered 24) substitute—

"Excluded transactions"

5. In paragraph 14 (renumbered 27), make the existing provision subparagraph (1) and after it insert—

"(2) In this Part "director" includes a shadow director."

6.—(1) For the heading to the present Part II substitute—

"PART III

OTHER TRANSACTIONS, ARRANGEMENTS AND AGREEMENTS".

(2) Paragraphs 15 to 17 of that Part shall be renumbered 28 to 30, and internal cross-references in that Part shall be renumbered accordingly.

(3) In paragraph 16 (renumbered 29), for "made as mentioned in Article 241(1)" substitute "made by the company or a subsidiary of it for persons who at any time during the financial year were officers of the company (but not directors or shadow directors)".

7. Omit the present Part III (disclosure required in case of banking companies), the substance of which is reproduced in Part IV of Schedule 7.

Article 10(2).

SCHEDULE 5

MATTERS TO BE INCLUDED IN DIRECTORS' REPORT

1. Schedule 7 to the 1986 Order (matters to be included in directors' report) is amended as follows.

Subsidiary undertakings

2.—(1) In paragraph 1(1) (significant changes in fixed assets) for "subsidiaries" substitute "subsidiary undertakings".

(2) In paragraph 6 (general information), for "subsidiaries" in each place where it occurs (three times) substitute "subsidiary undertakings".

Directors' interests

3. For paragraph 2 (directors' interests) substitute—

“2.—(1) The information required by paragraphs 2A and 2B shall be given in the directors’ report, or by way of notes to the company’s annual accounts, with respect to each person who at the end of the financial year was a director of the company.

(2) In those paragraphs—

- (a) “the register” means the register of directors’ interests kept by the company under Article 333; and
- (b) references to a body corporate being in the same group as the company are to its being a subsidiary or holding company, or another subsidiary of a holding company, of the company.

2A.—(1) It shall be stated with respect to each director whether, according to the register, he was at the end of the financial year interested in shares in or debentures of the company or any other body corporate in the same group.

(2) If he was so interested, there shall be stated the number of shares in and amount of debentures of each body (specifying it) in which, according to the register, he was then interested.

(3) If a director was interested at the end of the financial year in shares in or debentures of the company or any other body corporate in the same group—

- (a) it shall also be stated whether, according to the register, he was at the beginning of the financial year (or, if he was not then a director, when he became one) interested in shares in or debentures of the company or any other body corporate in the same group, and
- (b) if he was so interested, there shall be stated the number of shares in and amount of debentures of each body (specifying it) in which, according to the register, he was then interested.

(4) In this paragraph references to an interest in shares or debentures have the same meaning as in Article 332, and references to the interest of a director include any interest falling to be treated as his for the purposes of that Article.

(5) The reference above to the time when a person became a director is, in the case of a person who became a director on more than one occasion, to the time when he first became a director.

2B.—(1) It shall be stated with respect to each director whether, according to the register, any right to subscribe for shares in or debentures of the company or another body corporate in the same group was during the financial year granted to, or exercised by, the director or a member of his immediate family.

(2) If any such right was granted to, or exercised by, any such person during the financial year, there shall be stated the number of shares in and amount of debentures of each body (specifying it) in respect of which, according to the register, the right was granted or exercised.

(3) A director’s “immediate family” means his or her spouse and infant children; and for this purpose “children” includes step-children.

(4) The reference above to a member of the director’s immediate family does not include a person who is himself or herself a director of the company.”

Article 15(2).

SCHEDULE 6
[SCHEDULE 8 TO THE 1986 ORDER]
EXEMPTIONS FOR SMALL AND MEDIUM-SIZED COMPANIES

PART I

SMALL COMPANIES

Balance sheet

1.—(1) The company may deliver a copy of an abbreviated version of the full balance sheet, showing only those items to which a letter or Roman number is assigned in the balance sheet format adopted under Part I of Schedule 4, but in other respects corresponding to the full balance sheet.

(2) If a copy of an abbreviated balance sheet is delivered, there shall be disclosed in it or in a note to the company's accounts delivered—

(a) the aggregate of the amounts required by note (5) of the notes on the balance sheet formats set out in Part I of Schedule 4 to be shown separately for each item included under debtors (amounts falling due after one year), and

(b) the aggregate of the amounts required by note (13) of those notes to be shown separately for each item included under creditors in Format 2 (amounts falling due within one year or after more than one year).

(3) The provisions of Article 241 as to the signing of the copy of the balance sheet delivered to the registrar apply to a copy of an abbreviated balance sheet delivered in accordance with this paragraph.

Profit and loss account

2. A copy of the company's profit and loss account need not be delivered.

Disclosure of information in notes to accounts

3.—(1) Of the information required by Part III of Schedule 4 (information to be given in notes to accounts if not given in the accounts themselves) only the information required by the following provisions need be given—

paragraph 36 (accounting policies),

paragraph 38 (share capital),

paragraph 39 (particulars of allotments),

paragraph 42 (fixed assets), so far as it relates to those items to which a letter or Roman number is assigned in the balance sheet format adopted,

paragraph 48(1) and (4) (particulars of debts),

paragraph 58(1) (basis of conversion of foreign currency amounts into sterling),

paragraph 58(2) (corresponding amounts for previous financial year), so far as it relates to amounts stated in a note to the company's accounts by virtue of a requirement of Schedule 4 or under any other provision of this Order.

(2) Of the information required by Schedule 5 to be given in notes to the accounts, the information required by the following provisions need not be given—

paragraph 4 (financial years of subsidiary undertakings),

paragraph 5 (additional information about subsidiary undertakings),
paragraph 6 (shares and debentures of company held by subsidiary
undertakings),
paragraph 10 (arrangements attracting merger relief).

(3) Of the information required by Schedule 6 to be given in notes to the accounts, the information required by Part I (directors' and chairman's emoluments, pensions and compensation for loss of office) need not be given.

Directors' report

4. A copy of the directors' report need not be delivered.

PART II

MEDIUM-SIZED COMPANIES

Profit and loss account

5. The company may deliver a profit and loss account in which the following items listed in the profit and loss account formats set out in Part I of Schedule 4 are combined as one item under the heading "gross profit or loss"—

- Items 1, 2, 3 and 6 in Format 1;
- Items 1 to 5 in Format 2;
- Items A.1, B.1 and B.2 in Format 3;
- Items A.1, A.2 and B.1 to B.4 in Format 4.

Disclosure of information in notes to accounts

6. The information required by paragraph 55 of Schedule 4 (particulars of turnover) need not be given.

PART III

SUPPLEMENTARY PROVISIONS

Statement that advantage taken of exemptions

7.—(1) Where the directors of a company take advantage of the exemptions conferred by Part I or Part II, the company's balance sheet shall contain—

- (a) a statement that advantage is taken of the exemptions conferred by Part I or, as the case may be, Part II, and
- (b) a statement of the grounds on which, in the directors' opinion, the company is entitled to those exemptions.

(2) The statements shall appear in the balance sheet immediately above the signature required by Article 241.

Special auditors' report

8.—(1) If the directors of a company propose to take advantage of the exemptions conferred by Part I or II, it is the auditors' duty to provide them with a report stating whether in their opinion the company is entitled to those exemptions and whether the documents to be proposed to be delivered in accordance with this Schedule are properly prepared.

(2) The accounts delivered shall be accompanied by a special report of the auditors stating that in their opinion—

(a) the company is entitled to the exemptions claimed in the directors' statement, and

(b) the accounts to be delivered are properly prepared in accordance with this Schedule.

(3) In such a case a copy of the auditors' report under Article 243 need not be delivered separately, but the full text of it shall be reproduced in the special report; and if the report under Article 243 is qualified there shall be included in the special report any further material necessary to understand the qualification.

(4) Article 244 (signature of auditors' report) applies to a special report under this paragraph as it applies to a report under Article 243.

Dormant companies

9. Paragraphs 7 and 8 do not apply where the company is exempt by virtue of Article 258 (dormant companies) from the obligation to appoint auditors.

Requirements in connection with publication of accounts

10.—(1) Where advantage is taken of the exemptions conferred by Part I or II, Article 248 (requirements in connection with publication of accounts) has effect with the following adaptations.

(2) Accounts delivered in accordance with this Schedule and accounts in the form in which they would be required to be delivered apart from this Schedule are both "statutory accounts" for the purposes of that Article.

(3) References in that Article to the auditors' report under Article 243 shall be read, in relation to accounts delivered in accordance with this Schedule, as references to the special report under paragraph 8.

Article 20(3)
and (4).

SCHEDULE 7

SPECIAL PROVISIONS FOR BANKING AND INSURANCE COMPANIES AND GROUPS

Preliminary

Schedule 9 to the 1986 Order is amended in accordance with this Schedule, as follows—

(a) for the heading of the Schedule substitute "SPECIAL PROVISIONS FOR BANKING AND INSURANCE COMPANIES AND GROUPS";

(b) omit the introductory paragraph preceding Part I, together with its heading;

(c) make the present provisions of Parts I to V of the Schedule (as amended by Part I of this Schedule) Part I of the Schedule, and accordingly—

(i) for the descriptive Part heading before paragraph 2 substitute "FORM AND CONTENT OF ACCOUNTS", and

(ii) omit the Part headings before paragraphs 19, 27, 31 and 32;

(d) the provisions of Parts II, III and IV of this Schedule have effect as Parts II, III and IV of Schedule 9 to the 1986 Order.

PART I

FORM AND CONTENT OF ACCOUNTS

1. In paragraph 10(1)(c) of Schedule 9 to the 1986 Order (disclosure of outstanding loans in connection with certain cases of financial assistance for purchase of company's own shares), after "163(4)(b)" insert ", (bb)".

2. In paragraph 13 of that Schedule (information supplementing balance sheet), omit sub-paragraph (3) (information as to acquisition of, or creation of lien or charge over, company's own shares).

3. In paragraph 17(5) of that Schedule (statement of turnover: companies exempt from requirement) for "neither a holding company nor a subsidiary of another body corporate" substitute "neither a parent company nor a subsidiary undertaking".

4. After paragraph 18 of that Schedule insert—

"Supplementary provisions

18A.—(1) Accounting policies shall be applied consistently within the same accounts and from one financial year to the next.

(2) If it appears to the directors of a company that there are special reasons for departing from the principle stated in sub-paragraph (1) in preparing the company's accounts in respect of any financial year, they may do so; but particulars of the departure, the reasons for it and its effect shall be given in a note to the accounts.

18B. It shall be stated whether the accounts have been prepared in accordance with applicable accounting standards, and particulars of any material departure from those standards and the reasons for it shall be given.

18C.—(1) In respect of every item shown in the balance sheet or profit and loss account, or stated in a note to the accounts, there shall be shown or stated the corresponding amount for the financial year immediately preceding that to which the accounts relate, subject to sub-paragraph (3).

(2) Where the corresponding amount is not comparable, it shall be adjusted and particulars of the adjustment and the reasons for it shall be given in a note to the accounts.

(3) Sub-paragraph (1) does not apply in relation to an amount shown—

- (a) as an amount the source or application of which is required by paragraph 8 (reserves and provisions),
- (b) in pursuance of paragraph 13(10) (acquisitions and disposals of fixed assets),
- (c) by virtue of paragraph 13 of Schedule 4A (details of accounting treatment of acquisitions),
- (d) by virtue of paragraph 2, 8(3), 16, 21(1)(d), 22(4) or (5), 24(3) or (4) or 27(3) or (4) of Schedule 5 (shareholdings in other undertakings), or
- (e) by virtue of Part II or III of Schedule 6 (loans and other dealings in favour of directors and others)."

5.—(1) Before paragraph 19 of that Schedule insert the heading "*Provisions where company is parent company or subsidiary undertaking*"; and that paragraph is amended as follows.

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(2) In sub-paragraph (1) for the words from “is a holding company” onwards substitute “is a parent company”.

(3) In sub-paragraph (2)—

(a) for “subsidiaries” (four times) substitute “subsidiary undertakings”, and

(b) in head (a), for “Part I” substitute “paragraphs 5, 6, 10, 13 and 14”.

(4) Omit sub-paragraphs (3) to (8).

6. For paragraph 20 of that Schedule substitute—

“20.—(1) This paragraph applies where the company is a subsidiary undertaking.

(2) The balance sheet of the company shall show—

(a) the aggregate amount of its indebtedness to undertakings of which it is a subsidiary undertaking or which are fellow subsidiary undertakings, and

(b) the aggregate amount of the indebtedness of all such undertakings to it,

distinguishing in each case between indebtedness in respect of debentures and otherwise.

(3) The balance sheet shall also show the aggregate amount of assets consisting of shares in fellow subsidiary undertakings.”

7. Omit paragraphs 21 to 26 of that Schedule.

8.—(1) Before paragraph 27 of that Schedule insert the heading “*Exceptions for certain companies*”; and that paragraph is amended as follows.

(2) In sub-paragraph (2)—

(a) for “Part I” substitute “paragraphs 2 to 18”, and

(b) in head (b) for the words from “paragraphs 15” to the end substitute “and paragraph 15”.

(3) In sub-paragraph (4), omit “of Part I”.

9. In paragraph 28 of that Schedule, in sub-paragraphs (1) and (2) for “Part I” substitute “paragraphs 2 to 18”.

10. After that paragraph insert—

“28A. Where a company is entitled to, and has availed itself of, any of the provisions of paragraph 27 or 28, Article 243(2) only requires the auditors to state whether in their opinion the accounts have been properly prepared in accordance with this Order.”

11. Omit paragraphs 29 to 31 of that Schedule.

12. Before paragraph 32 of that Schedule insert the heading “*Interpretation*”; and in sub-paragraphs (1) and (2) of that paragraph for “Schedule” substitute “Part”.

PART II

[PART II OF SCHEDULE 9 TO THE 1986 ORDER]
ACCOUNTS OF BANKING OR INSURANCE GROUP

Undertakings to be included in consolidation

1. The following descriptions of undertaking shall not be excluded from

consolidation under Article 237(4) (exclusion of undertakings whose activities are different from those of the undertakings consolidated)—

- (a) in the case of a banking group, an undertaking (other than a credit institution) whose activities are a direct extension of or ancillary to banking business;
- (b) in the case of an insurance group, an undertaking (other than one carrying on insurance business) whose activities are a direct extension of or ancillary to insurance business.

For the purposes of sub-paragraph (a) “banking” means the carrying on of a deposit-taking business within the meaning of the Banking Act 1987. 1987 c. 22

General application of provisions applicable to individual accounts

2.—(1) In paragraph 1 of Schedule 4A (application to group accounts of provisions applicable to individual accounts), the reference in sub-paragraph (1) to the provisions of Schedule 4 shall be construed as a reference to the provisions of Part I of this Schedule; and accordingly—

- (a) the reference in sub-paragraph (2) to paragraph 59 of Schedule 4 shall be construed as a reference to paragraph 19(2) and 20 of Part I of this Schedule; and
- (b) sub-paragraph (3) shall be omitted.

(2) The general application of the provisions of Part I of this Schedule in place of those of Schedule 4 is subject to the following provisions.

Treatment of goodwill

3.—(1) The rules in paragraph 21 of Schedule 4 relating to the treatment of goodwill, and the rules in paragraphs 17 to 19 of that Schedule (valuation of fixed assets) so far as they relate to goodwill, apply for the purpose of dealing with any goodwill arising on consolidation.

(2) Goodwill shall be shown as a separate item in the balance sheet under an appropriate heading; and this applies notwithstanding anything in paragraph 10(1)(b) or (2) of Part I of this Schedule (under which goodwill, patents and trade marks may be stated in the company's individual accounts as a single item).

Minority interests and associated undertakings

4. The information required by paragraphs 17 and 20 to 22 of Schedule 4A (minority interests and associated undertakings) to be shown under separate items in the formats set out in Part I of Schedule 4 shall be shown separately in the balance sheet and profit and loss account under appropriate headings.

Companies entitled to benefit of exemptions

5.—(1) Where a banking or insurance company is entitled to the exemptions conferred by paragraph 27 or 28 of Part I, a group headed by that company is similarly entitled.

(2) Paragraphs 27(4), 28(2) and 28A (accounts not to be taken to be other than true and fair; duty of auditors) apply accordingly where advantage is taken of those exemptions in relation to group accounts.

Information as to undertaking in which shares held as result of financial assistance operation

6.—(1) The following provisions apply where the parent company of a banking group has a subsidiary undertaking which—

- (a) is a credit institution of which shares are held as a result of a financial assistance operation with a view to its reorganisation or rescue, and
 - (b) is excluded from consolidation under Article 237(3)(c) (interests held with a view to resale).
- (2) Information as to the nature and terms of the operation shall be given in a note to the group accounts and there shall be appended to the copy of the group accounts delivered to the registrar in accordance with Article 250 a copy of the undertaking's latest individual accounts and, if it is a parent undertaking, its latest group accounts.
- If the accounts appended are required by law to be audited, a copy of the auditors' report shall also be appended.
- (3) If any document required to be appended is in a language other than English, the directors shall annex to the copy of that document delivered a translation of it into English, certified in the prescribed manner to be a correct translation.
- (4) The above requirements are subject to the following qualifications—
- (a) an undertaking is not required to prepare for the purposes of this paragraph accounts which would not otherwise be prepared, and if no accounts satisfying the above requirements are prepared none need be appended;
 - (b) the accounts of an undertaking need not be appended if they would not otherwise be required to be published, or made available for public inspection, anywhere in the world, but in that case the reason for not appending the accounts shall be stated in a note to the consolidated accounts.
- (5) Where a copy of an undertaking's accounts is required to be appended to the copy of the group accounts delivered to the registrar, that fact shall be stated in a note to the group accounts.
- (6) Paragraphs (2) to (4) of Article 250 (penalties, &c. in case of default) apply in relation to the requirements of this paragraph as regards the delivery of documents to the registrar as they apply in relation to the requirements of paragraph (1) of that Article.

PART III

[PART III OF SCHEDULE 9 TO THE 1986 ORDER] **ADDITIONAL DISCLOSURE: RELATED UNDERTAKINGS**

1. Where accounts are prepared in accordance with the special provisions of this Part relating to banking companies or groups, there shall be disregarded for the purposes of—
- (a) paragraphs 7(2)(a), 23(2)(a) and 26(2)(a) of Schedule 5 (information about significant holdings in undertakings other than subsidiary undertakings: definition of 10 per cent. holding), and
 - (b) paragraphs 9(1), 25(1) and 28(1) of that Schedule (additional information in case of 20 per cent. holding),
- any holding of shares not comprised in the equity share capital of the undertaking in question.

PART IV
[PART IV OF SCHEDULE 9 TO THE 1986 ORDER]
ADDITIONAL DISCLOSURE: EMOLUMENTS AND OTHER BENEFITS OF
DIRECTORS AND OTHERS

1. The provisions of this Part have effect with respect to the application of Schedule 6 (additional disclosure: emoluments and other benefits of directors and others) to a banking company or the holding company of such a company.

Loans, quasi-loans and other dealings

2. Part II of Schedule 6 (loans, quasi-loans and other dealings) does not apply for the purposes of accounts prepared by a banking company, or a company which is the holding company of a banking company, in relation to a transaction or arrangement of a kind mentioned in Article 338, or an agreement to enter into such a transaction or arrangement, to which that banking company is a party.

Other transactions, arrangements and agreements

3.—(1) Part III of Schedule 6 (other transactions, arrangements and agreements) applies for the purposes of accounts prepared by a banking company, or a company which is the holding company of a banking company, only in relation to a transaction, arrangement or agreement made by that banking company for—

(a) a person who was a director of the company preparing the accounts, or who was connected with such a director, or

(b) a person who was a chief executive or manager (within the meaning of the Banking Act 1987) of that company or its holding company.

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(2) References in that Part to officers of the company shall be construed accordingly as including references to such persons.

(3) In this paragraph “director” includes a shadow director.

(4) For the purposes of that Part as it applies by virtue of this paragraph, a company which a person does not control shall not be treated as connected with him.

(5) Article 354 applies for the purposes of this paragraph as regards the interpretation of references to a person being connected with a director or controlling a company.

SCHEDULE 8

Article 20(5).

[SCHEDULE 10 TO THE 1986 ORDER]
DIRECTORS' REPORT WHERE ACCOUNTS PREPARED IN ACCORDANCE
WITH SPECIAL PROVISIONS FOR BANKING OR INSURANCE COMPANIES OR
GROUPS

Recent issues

1.—(1) This paragraph applies where a company prepares individual accounts in accordance with the special provisions of Part VIII of this Order relating to banking or insurance companies.

(2) If in the financial year to which the accounts relate the company has issued any shares or debentures, the directors' report shall state the reason for making the issue, the classes of shares or debentures issued and, as respects each class, the number of shares or amount of debentures issued and the consideration received by the company for the issue.

Turnover and profitability

2.—(1) This paragraph applies where a company prepares group accounts in accordance with the special provisions of Part VIII of this Order relating to banking or insurance groups.

(2) If in the course of the financial year to which the accounts relate the group carried on business of two or more classes (other than banking or discounting or a class prescribed for the purposes of paragraph 17(2) of Part I of Schedule 9) that in the opinion of the directors differ substantially from each other, there shall be contained in the directors' report a statement of—

- (a) the proportions in which the turnover for the financial year (so far as stated in the consolidated accounts) is divided amongst those classes (describing them), and
- (b) as regards business of each class, the extent or approximate extent (expressed in money terms) to which, in the opinion of the directors, the carrying on of business of that class contributed to or restricted the profit or loss of the group for that year (before taxation).

(3) In sub-paragraph (2) "the group" means the undertakings included in the consolidation.

(4) For the purposes of this paragraph classes of business which in the opinion of the directors do not differ substantially from each other shall be treated as one class.

Labour force and wages paid

3.—(1) This paragraph applies where a company prepares individual or group accounts in accordance with the special provisions of Part VIII of this Order relating to banking or insurance companies or groups.

(2) There shall be stated in the directors' report—

- (a) the average number of persons employed by the company or, if the company prepares group accounts, by the company and its subsidiary undertakings, and
- (b) the aggregate amount of the remuneration paid or payable to persons so employed.

(3) The average number of persons employed shall be determined by adding together the number of persons employed (whether throughout the week or not) in each week of the financial year and dividing that total by the number of weeks in the financial year.

(4) The aggregate amount of the remuneration paid or payable means the total amount of remuneration paid or payable in respect of the financial year; and for this purpose remuneration means gross remuneration and includes bonuses, whether payable under contract or not.

(5) The information required by this paragraph need not be given if the average number of persons employed is less than 100.

(6) No account shall be taken for the purposes of this paragraph of persons who worked wholly or mainly outside the United Kingdom.

(7) This paragraph does not apply to a company which is a wholly-owned subsidiary of a company incorporated in Northern Ireland.

SCHEDULE 9

Article 23(2).

[SCHEDULE 10A TO THE 1986 ORDER]

PARENT AND SUBSIDIARY UNDERTAKINGS: SUPPLEMENTARY PROVISIONS

Introduction

1. The provisions of this Schedule explain expressions used in Article 266 (parent and subsidiary undertakings) and otherwise supplement that Article.

Voting rights in an undertaking

2.—(1) In Article 266(2)(a) and (d) the references to the voting rights in an undertaking are to the rights conferred on shareholders in respect of their shares or, in the case of an undertaking not having a share capital, on members, to vote at general meetings of the undertaking on all, or substantially all, matters.

(2) In relation to an undertaking which does not have general meetings at which matters are decided by the exercise of voting rights, the references to holding a majority of the voting rights in the undertaking shall be construed as references to having the right under the constitution of the undertaking to direct the overall policy of the undertaking or to alter the terms of its constitution.

Right to appoint or remove a majority of the directors

3.—(1) In Article 266(2)(b) the reference to the right to appoint or remove a majority of the board of directors is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all, or substantially all, matters.

(2) An undertaking shall be treated as having the right to appoint to a directorship if—

- (a) a person's appointment to it follows necessarily from his appointment as director of the undertaking, or
- (b) the directorship is held by the undertaking itself.

(3) A right to appoint or remove which is exercisable only with the consent or concurrence of another person shall be left out of account unless no other person has a right to appoint or, as the case may be, remove in relation to that directorship.

Right to exercise dominant influence

4.—(1) For the purposes of Article 266(2)(c) an undertaking shall not be regarded as having the right to exercise a dominant influence over another undertaking unless it has a right to give directions with respect to the operating and financial policies of that other undertaking which its directors are obliged to comply with whether or not they are for the benefit of that other undertaking.

(2) A "control contract" means a contract in writing conferring such a right which—

- (a) is of a kind authorised by the memorandum or articles of the undertaking in relation to which the right is exercisable, and
- (b) is permitted by the law under which that undertaking is established.

(3) This paragraph shall not be read as affecting the construction of the expression "actually exercises a dominant influence" in Article 266(4)(a).

Rights exercisable only in certain circumstances or temporarily incapable of exercise

5.—(1) Rights which are exercisable only in certain circumstances shall be taken into account only—

- (a) when the circumstances have arisen, and for so long as they continue to obtain, or
- (b) when the circumstances are within the control of the person having the rights.

(2) Rights which are normally exercisable but are temporarily incapable of exercise shall continue to be taken into account.

Rights held by one person on behalf of another

6. Rights held by a person in a fiduciary capacity shall be treated as not held by him.

7.—(1) Rights held by a person as nominee for another shall be treated as held by the other.

(2) Rights shall be regarded as held as nominee for another if they are exercisable only on his instructions or with his consent or concurrence.

Rights attached to shares held by way of security

8. Rights attached to shares held by way of security shall be treated as held by the person providing the security—

- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with his instructions, and
- (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in his interests.

Rights attributed to parent undertaking

9.—(1) Rights shall be treated as held by a parent undertaking if they are held by any of its subsidiary undertakings.

(2) Nothing in paragraph 7 or 8 shall be construed as requiring rights held by a parent undertaking to be treated as held by any of its subsidiary undertakings.

(3) For the purposes of paragraph 8 rights shall be treated as being exercisable in accordance with the instructions or in the interests of an undertaking if they are exercisable in accordance with the instructions of or, as the case may be, in the interests of any group undertaking.

Disregard of certain rights

10. The voting rights in an undertaking shall be reduced by any rights held by the undertaking itself.

Supplementary

11. References in any provision of paragraphs 6 to 10 to rights held by a person include rights falling to be treated as held by him by virtue of any other provision of those paragraphs but not rights which by virtue of any such provision are to be treated as not held by him.

SCHEDULE 10

Article 25.

AMENDMENTS CONSEQUENTIAL ON PART II

PART I

AMENDMENTS OF THE 1986 ORDER

1. In Article 2(3) (interpretation), omit the definition of "authorised institution" and at the appropriate place insert—

"'banking company' means a company which is authorised under the Banking Act 1987,".

2. For Article 10 (expressions used in connection with accounts) substitute—

"Expressions used in connection with accounts"

10.—(1) In this Order the following expressions have the same meaning as in Part VIII (accounts)—

"annual accounts",

"accounting reference date" and "accounting reference period",

"balance sheet" and "balance sheet date",

"current assets",

"financial year", in relation to a company,

"fixed assets",

"parent company" and "parent undertaking",

"profit and loss account", and

"subsidiary undertaking".

(2) References in this Order to "realised profits" and "realised losses", in relation to a company's accounts, shall be construed in accordance with Article 270(3)."

3. In Article 56 (meaning of "unqualified" auditors' report in Article 53(3)), for paragraphs (2) to (6) substitute—

"(2) If the balance sheet was prepared for a financial year of the company, the reference is to an auditors' report stating without material qualification the auditors' opinion that the balance sheet has been properly prepared in accordance with this Order.

(3) If the balance sheet was not prepared for a financial year of the company, the reference is to an auditors' report stating without material qualification the auditors' opinion that the balance sheet has been properly prepared in accordance with the provisions of this Order which would have applied if it had been so prepared.

For the purposes of an auditors' report under this paragraph the provisions of this Order shall be deemed to apply with such modifications as are necessary by reason of the fact that the balance sheet is not prepared for a financial year of the company.

(4) A qualification shall be regarded as material unless the auditors state in their report that the matter giving rise to the qualification is not material for the purpose of determining (by reference to the company's balance sheet) whether at the balance sheet date the amount of the company's net assets was not less than the aggregate of its called up share capital and undistributable reserves.

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In this paragraph “net assets” and “undistributable reserves” have the meaning given by Article 272(2) and (3).”.

4. In Article 217(5)(a)(i) for “an authorised institution” substitute “a banking company”.

5. In Articles 219(9) and 223(4) for “paragraph 3 or 10 of Schedule 5” substitute “Article 239(3)”.

6. In Article 279(3), for “Article 244” substitute “Article 243”.

7. In Article 280(3)—

(a) for “Article 236” substitute “Article 234”, and

(b) for “Article 246” substitute “Article 241”.

8. In Articles 280(5) and 281(7) for “Article 249(3)(b)” substitute “the second sentence of Article 250(1)”.

9. In Article 284(b) for “34(4)(b)” substitute “34(3)(a)”.

10. For Article 287 substitute—

“Distributions by banking or insurance companies

287. Where a company’s accounts relevant for the purposes of this Part are prepared in accordance with the special provisions of Part VIII relating to banking or insurance companies, Articles 272 to 283 apply with the modifications shown in Schedule 11.”.

11. In Article 297(4) for “Article 260(5)” substitute “Article 258(3)”.

12. In Article 305(3)(b)—

(a) in head (i) for “Article 252” substitute “Article 250(3)”, and

(b) after that head insert—

“(ia) Article 253B, or”.

13. In Articles 346(4), 347(4), 351(1)(a) and 352(2) for “an authorised institution”, wherever occurring, substitute “a banking company”.

14. In Article 351(2) and (4) for “paragraph 4 of Schedule 6, be required by Article 240” substitute “paragraph 2 of Part IV of Schedule 9, be required”.

15. After Article 387 insert—

“Elective resolution of private company

387A.—(1) An election by a private company for the purposes of Article 260 (election to dispense with laying of accounts and reports before general meeting) shall be made by resolution of the company in general meeting in accordance with this Article.

Such a resolution is referred to in this Order as an “elective resolution”.

(2) An elective resolution is not effective unless—

(a) at least 21 days’ notice in writing is given of the meeting, stating that an elective resolution is to be proposed and stating the terms of the resolution, and

(b) the resolution is agreed to at the meeting, in person or by proxy, by all the members entitled to attend and vote at the meeting.

(3) The company may revoke an elective resolution by passing an ordinary resolution to that effect.

(4) An elective resolution shall cease to have effect if the company is re-registered as a public company.

(5) An elective resolution may be passed or revoked in accordance with this Article, and the provision referred to in paragraph (1) has effect, notwithstanding any contrary provision in the company's articles of association."

16. In Article 388 (registration of resolutions), in paragraph (4) (resolutions to which the Article applies), after sub-paragraph (b) insert—

"(bb) an elective resolution or a resolution revoking such a resolution."

17. In Article 428(2)—

(a) in sub-paragraph (a) for "Article 240 and Part I of Schedule 6" substitute "Part II of Schedule 6, or that Part as applied by Part IV of Schedule 9";

(b) omit sub-paragraph (b).

18. In Part XXIII (Part XXIII companies), for Chapter II (delivery of accounts) substitute—

"CHAPTER II

DELIVERY OF ACCOUNTS AND REPORTS

Preparation of accounts and reports by Part XXIII companies

649.—(1) Every Part XXIII company shall in respect of each financial year of the company prepare the like accounts and directors' report, and cause to be prepared such an auditors' report, as would be required if the company were formed and registered under this Order.

(2) The Department may by order—

(a) modify the requirements referred to in paragraph (1) for the purpose of their application to Part XXIII companies;

(b) exempt a Part XXIII company from those requirements or from such of them as may be specified in the order.

(3) An order may contain such incidental and supplementary provisions as the Department thinks fit.

(4) An order under this Article shall be subject to negative resolution.

Part XXIII company's financial year and accounting reference periods

650.—(1) Articles 231 to 233 (financial year and accounting reference periods) apply to a Part XXIII company, subject to the following modifications.

(2) For the references to the incorporation of the company substitute references to the company establishing a place of business in Northern Ireland.

(3) Omit Article 233(4) (restriction on frequency with which current accounting reference period may be extended).

Delivery to registrar of accounts and reports of Part XXIII company

651.—(1) A Part XXIII company shall in respect of each financial year of the company deliver to the registrar copies of the accounts and reports prepared in accordance with Article 649.

If any document comprised in those accounts or reports is in a language other than English, the directors shall annex to the copy delivered a translation of it into English, certified in the prescribed manner to be a correct translation.

(2) In relation to a Part XXIII company the period allowed for delivering accounts and reports is 13 months after the end of the relevant accounting reference period.

This is subject to the following provisions of this Article.

(3) If the relevant accounting reference period is the company's first and is a period of more than 12 months, the period allowed is 13 months from the first anniversary of the company's establishing a place of business in Northern Ireland.

(4) If the relevant accounting period is treated as shortened by virtue of a notice given by the company under Article 233 (alteration of accounting reference date), the period allowed is that applicable in accordance with the above provisions or 3 months from the date of the notice under that Article, whichever last expires.

(5) If for any special reason the Department thinks fit it may, on an application made before the expiry of the period otherwise allowed, by notice in writing to a Part XXIII company extend that period by such further period as may be specified in the notice.

(6) In this Article "the relevant accounting reference period" means the accounting reference period by reference to which the financial year for the accounts in question was determined.

Penalty for non-compliance

652.—(1) If the requirements of Article 651(1) are not complied with before the end of the period allowed for delivering accounts and reports, or if the accounts and reports delivered do not comply with the requirements of this Order, the company and every person who immediately before the end of that period was a director of the company is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.

(2) It is a defence for a person charged with such an offence to prove that he took all reasonable steps for securing that the requirements in question would be complied with.

(3) It is not a defence in relation to a failure to deliver copies to the registrar to prove that the documents in question were not in fact prepared as required by this Order."

19. In Article 660(1)(k) for "Article 249 (annual accounts)" substitute "Article 250(1) (accounts and reports)".

20. In Schedule 1, in paragraph 2(2)(a) for "Article 260(5)" substitute "Article 258(3)".

21.—(1) Schedule 2 (interpretation of references to "beneficial interest") is amended as follows.

(2) After the heading at the beginning of the Schedule, and before the cross-heading preceding paragraph 1, insert the following heading—

"PART I
REFERENCES IN ARTICLES 33, 155, 156 AND 158".

- (3) In paragraph 1—
(a) in sub-paragraph (1) omit “paragraph 60(2) of Schedule 4, or paragraph 19(3) of Schedule 9”; and
(b) omit sub-paragraph (5).
- (4) In paragraph 3—
(a) in sub-paragraph (1) omit “, paragraph 60(2) of Schedule 4 or paragraph 19(3) of Schedule 9”; and
(b) omit sub-paragraph (3).
- (5) In paragraph 4—
(a) in sub-paragraph (1) omit “(whether as personal representative or otherwise)”, and
(b) in sub-paragraph (2) omit “, paragraph 60(2) of Schedule 4 and paragraph 19(3) of Schedule 9”;
- and at the end add—
- “(3) As respects Articles 155, 156 and 158, sub-paragraph (1) applies where a company is a personal representative as it applies where a company is a trustee.”.
- (6) In paragraph 5(1) for “this Schedule” substitute “this Part of this Schedule”.
- (7) After paragraph 5 insert the following—

“PART II

REFERENCES IN SCHEDULE 5

Residual interests under pension and employees' share schemes

6.—(1) Where shares in an undertaking are held on trust for the purposes of a pension scheme or an employees' share scheme, there shall be disregarded any residual interest which has not vested in possession, being an interest of the undertaking or any of its subsidiary undertakings.

(2) In this paragraph a “residual interest” means a right of the undertaking in question (the “residual beneficiary”) to receive any of the trust property in the event of—

- (a) all the liabilities arising under the scheme having been satisfied or provided for, or
(b) the residual beneficiary ceasing to participate in the scheme, or
(c) the trust property at any time exceeding what is necessary for satisfying the liabilities arising or expected to arise under the scheme.

(3) In sub-paragraph (2) references to a right include a right dependent on the exercise of a discretion vested by the scheme in the trustee or any other person; and references to liabilities arising under a scheme include liabilities that have resulted or may result from the exercise of any such discretion.

(4) For the purposes of this paragraph a residual interest vests in possession—

- (a) in a case within sub-paragraph (2)(a), on the occurrence of the event there mentioned, whether or not the amount of the property receivable pursuant to the right mentioned in that sub-paragraph is then ascertained;

- (b) in a case within sub-paragraph (2)(b) or (c), when the residual beneficiary becomes entitled to require the trustee to transfer to that beneficiary any of the property receivable pursuant to that right.

Employer's charges and other rights of recovery

7.—(1) Where shares in an undertaking are held on trust, there shall be disregarded—

- (a) if the trust is for the purposes of a pension scheme, any such rights as are mentioned in sub-paragraph (2);
(b) if the trust is for the purposes of an employees' share scheme, any such rights as are mentioned in head (a) of that sub-paragraph, being rights of the undertaking or any of its subsidiary undertakings.

(2) The rights referred to are—

- (a) any charge or lien on, or set-off against, any benefit or other right or interest under the scheme for the purpose of enabling the employer or former employer of a member of the scheme to obtain the discharge of a monetary obligation due to him from the member, and
(b) any right to receive from the trustee of the scheme, or as trustee of the scheme to retain, an amount that can be recovered or retained under Article 48 of the Social Security Pensions (Northern Ireland) Order 1975 (deduction of premium from refund of pension contributions) or otherwise as reimbursement or partial reimbursement for any state scheme premium paid in connection with the scheme under Part IV of that Order.

1975 NI 15

Trustee's right to expenses, remuneration, indemnity, &c.

8. Where an undertaking is a trustee, there shall be disregarded any rights which the undertaking has in its capacity as trustee including, in particular, any right to recover its expenses or be remunerated out of the trust property and any right to be indemnified out of that property for any liability incurred by reason of any act or omission of the undertaking in the performance of its duties as trustee.

Supplementary

9.—(1) The following applies for the interpretation of this Part of this Schedule.

(2) "Undertaking", and "shares" in relation to an undertaking, have the same meaning as in Part VIII of this Order.

(3) This Part of this Schedule applies in relation to debentures as it applies in relation to shares.

(4) "Pension scheme" means any scheme for the provision of benefits consisting of or including relevant benefits for or in respect of employees or former employees; and "relevant benefits" means any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death or in anticipation of retirement or, in connection with past service, after retirement or death.

(5) In sub-paragraph (4) and in paragraph 7(2) "employee" and "employer" shall be read as if a director of an undertaking were employed by it."

22.—(1) Part II of Schedule 3 (prospectuses: auditors' and accountants' reports to be set out) is amended as follows.

(2) In paragraph 16 (auditors' reports), in sub-paragraph (2) for "subsidiaries" substitute "subsidiary undertakings" and for sub-paragraph (3) substitute—

"(3) If the company has subsidiary undertakings, the report shall—

(a) deal separately with the company's profits and losses as provided by sub-paragraph (2), and in addition deal either—

(i) as a whole with the combined profits or losses of its subsidiary undertakings, so far as they concern members of the company, or

(ii) individually with the profits or losses of each of its subsidiary undertakings, so far as they concern members of the company, or, instead of dealing separately with the company's profits or losses, deal as a whole with the profits or losses of the company and (so far as they concern members of the company) with the combined profits and losses of its subsidiary undertakings; and

(b) deal separately with the company's assets and liabilities as provided by sub-paragraph (2), and in addition deal either—

(i) as a whole with the combined assets and liabilities of its subsidiary undertakings, with or without the company's assets and liabilities, or

(ii) individually with the assets and liabilities of each of its subsidiary undertakings, indicating, as respects the assets and liabilities of its subsidiary undertakings, the allowance to be made for persons other than members of the company."

(3) For paragraph 18 (accountants' reports) substitute—

"18.—(1) The following provisions apply if—

(a) the proceeds of the issue are to be applied directly or indirectly in any manner resulting in the acquisition by the company of shares in any other undertaking, or any part of the proceeds is to be so applied, and

(b) by reason of that acquisition or anything to be done in consequence of or in connection with it, that undertaking will become a subsidiary undertaking of the company.

(2) There shall be set out in the prospectus a report made by accountants upon—

(a) the profits or losses of the other undertaking in respect of each of the 5 financial years immediately preceding the issue of the prospectus, and

(b) the assets and liabilities of the other undertaking at the last date to which its accounts were made up.

(3) The report shall—

(a) indicate how the profits or losses of the other undertaking would in respect of the shares to be acquired have concerned members of the company and what allowance would have fallen to be made, in relation to assets and liabilities so dealt with, for holders of other shares, if the company had at all material times held the

shares to be acquired, and

(b) where the other undertaking is a parent undertaking, deal with the profits or losses and the assets and liabilities of the undertaking and its subsidiary undertakings in the manner provided by paragraph 16(3) in relation to the company and its subsidiary undertakings.

(4) In this paragraph “undertaking” and “shares”, in relation to an undertaking, have the same meaning as in Part VIII of this Order.”.

(4) In paragraph 22 (eligibility of accountants to make reports), for subparagraph (2) substitute—

“(2) Such a report shall not be made by an accountant who is an officer or servant, or a partner of or in the employment of an officer or servant, of—

(a) the company or any of its subsidiary undertakings,

(b) a parent undertaking of the company or any subsidiary undertaking of such an undertaking.”.

23. In paragraph 12(b) of Schedule 4, for “Article 246” substitute “Article 241”.

24.—(1) Schedule 11 is amended as follows.

(2) For the heading substitute “MODIFICATIONS OF PART IX WHERE COMPANY’S ACCOUNTS PREPARED IN ACCORDANCE WITH SPECIAL PROVISIONS FOR BANKING OR INSURANCE COMPANIES”.

(3) In paragraphs 1 and 2(a) for “Schedule 9” substitute “Part I of Schedule 9”.

(4) In paragraph 4—

(a) in subparagraph (a) for “Schedule 9” substitute “Part I of Schedule 9”, and

(b) omit subparagraphs (b) and (c).

(5) In paragraph 5—

(a) in subparagraph (a) for “Part III of Schedule 9” substitute “paragraph 27 or 28 of Schedule 9”, and

(b) omit subparagraph (b).

(6) In paragraph 6—

(a) in subparagraph (a), for “Article 236” substitute “Article 234” and for “Article 266 and Schedule 9” substitute “Article 263 and Part I of Schedule 9”, and

(b) in subparagraph (b), for “Part III of Schedule 9” substitute “paragraph 27 or 28 of Schedule 9”.

(7) In paragraph 7(a) for “Schedule 9” substitute “Part I of Schedule 9”.

25.—(1) In Schedule 15A (provisions applicable to mergers and divisions of public companies), paragraph 6 (documents to be made available for inspection) is amended as follows.

(2) In subparagraph (1)(b) (directors’ report on merger or division), after “directors’ report” insert “referred to in paragraph 4”.

(3) For subparagraph (1)(d) and (e) substitute—

“(d) the company’s annual accounts, together with the relevant directors’ report and auditors’ report, for the last 3 financial years ending on or before the relevant date; and

(e) if the last of those financial years ended more than 6 months before the relevant date, an accounting statement in the form described in the following provisions.”.

(4) In sub-paragraph (1), after the heads add—

“In heads (d) and (e) “the relevant date” means one month before the first meeting of the company summoned under Article 418(1) or for the purposes of paragraph 1.”.

(5) For sub-paragraphs (2) to (5) substitute—

“(2) The accounting statement shall consist of—

(a) a balance sheet dealing with the state of the affairs of the company as at a date not more than 3 months before the draft terms were adopted by the directors, and

(b) where the company would be required to prepare group accounts if that date were the last day of a financial year, a consolidated balance sheet dealing with the state of affairs of the company and its subsidiary undertakings as at that date.

(3) The requirements of this Order as to balance sheets forming part of a company’s annual accounts, and the matters to be included in notes thereto, apply to any balance sheet required for the accounting statement, with such modifications as are necessary by reason of its being prepared otherwise than as at the last day of a financial year.

(4) Any balance sheet required for the accounting statement shall be approved by the board of directors and signed on behalf of the board by a director of the company.

(5) In relation to a company within the meaning of section 735 of the Companies Act 1985, the references in this paragraph to the requirements of this Order shall be construed as references to the corresponding requirements of that Act.”.

1985 c. 6

26. In Schedule 21 (provisions applying to unregistered companies), in the entry relating to Part VIII, in column 1, for “Schedule 10” substitute “Schedules 10 and 10A”.

27.—(1) Schedule 23 (punishment of offences) is amended as follows.

(2) The existing entries for provisions in Part VIII are amended as follows, and shall be re-ordered according to the new order of the Articles in that Part:

<i>Provision of Part VIII</i>	<i>Amendment</i>
231(1)	In column 1, for “231(1)” substitute “229(5) or 230(4)”.
231(2)	In column 1, for “231(2)” substitute “230(6)”. In column 2, for “230(4)” substitute “230(5)”.
239(3)	In column 1, for “239(3)” substitute “239(7)”.
239(4)	In column 1, for “239(4)” substitute “240(4)”. In column 2, for “Schedule 5, Part V” substitute “Schedule 6, Part I”.

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- 243(7) In column 1, for "243(7)" substitute "242(5)".
 In column 2, for "the Article" substitute "Part VIII".
- 246(2) In column 1, for "246(2)" substitute "241(6)".
- 248(5) In column 1, for "248(5)" substitute "246(5)".
 In column 2, for "company balance sheet" substitute "company's annual accounts".
- 251(1) In column 1, for "251(1)" substitute "249(2) or 250(2)".
 In column 2, for "company accounts" substitute "company's annual accounts, directors' report and auditors' report".
- 253(1) Omit the entry.
- 253(2) Omit the entry.
- 254(2) In column 1, for "254(2)" substitute "247(3)".
 In column 2, after "accounts" insert "and reports".
- 262(6) In column 1, for "262(6)" substitute "248(6)".
 In column 2, for the present words substitute "Failure to comply with requirements in connection with publication of accounts".
- 263(5) Omit the entry.
- 268(3) Omit the entry.

(3) At the appropriate places insert the following new entries—

"241(5)	Approving defective accounts.	1. On indictment. 2. Summary.	A fine The statutory maximum.
242A(4)	Laying, circulating or delivering directors' report without required signature.	Summary	One-fifth of the statutory maximum.
244(4)	Laying, circulating or delivering auditors' report without required signature.	Summary	One-fifth of the statutory maximum.
259(5)	Failure to comply with requirements in relation to summary financial statements.	Summary	One-fifth of the statutory maximum."

(4) In the entry for Article 652(1) (failure by Part XXIII company to comply with requirements as to accounts and reports), in column 2 for the words from "Article 649" to the end substitute "requirements as to accounts and reports.

PART II

AMENDMENTS OF OTHER STATUTORY PROVISIONS

The Patents, Designs and Marks Act 1986 (c. 39)

28. In Schedule 2 in paragraph 1(2) (provisions in which reference to trade mark includes service mark) for sub-paragraph (l) substitute—

“(l) in the Companies (Northern Ireland) Order 1986—

(i) paragraph (1)(j) of Article 403 (charges which have to be registered); and

(ii) Part I of Schedule 4 and paragraphs 5(2)(d) and 10(1)(b) and (2) of Schedule 9 (form of company balance sheets).”.

The Banking Act 1987 (c. 22)

29. In section 46(4) (duties of auditor of authorised institution) for “Articles 392, 244 and 245” substitute “Articles 392, 243(2), 243(3) and 245”.

The Income and Corporation Taxes Act 1988 (c. 1)

30.—(1) In section 180 (annual return of registered profit-related pay scheme) in subsection (3) for “Article 250(3)” substitute “Article 252(3)”.

(2) In section 565(7) (conditions for exemption from provisions relating to sub-contractors in construction industry: compliance with requirements of 1986 Order), for paragraph (a) substitute—

“(a) Articles 234, 249 and 250 (contents, laying and delivery of annual accounts);”.

The Companies (Northern Ireland) Order 1989 (NI 18)

31.—(1) In Article 6(3)(b) (default orders)—

(a) in head (i) for “Article 252” substitute “Article 250(3)”;

(b) after that head insert—

“(ia) Article 253B of that Order (order requiring preparation of revised accounts).”.

(2) In Schedule 1 for paragraph 5 substitute—

“5. The extent of the director’s responsibility for any failure by the directors of the company to comply with—

(a) Article 234 or 235 of the Companies Order (duty to prepare annual accounts); or

(b) Article 241 of that Order (approval and signature of accounts).”.

SCHEDULE 11

Article 33(5)

RECOGNITION OF SUPERVISORY BODY

PART I

GRANT AND REVOCATION OF RECOGNITION

Application for recognition of supervisory body

1.—(1) A supervisory body may apply to the Department for an order declaring it to be a recognised supervisory body for the purposes of Part III of this Order.

(2) Any such application—

- (a) shall be made in such manner as the Department may direct, and
- (b) shall be accompanied by such information as the Department may reasonably require for the purpose of determining the application.

(3) At any time after receiving an application and before determining it the Department may require the applicant to furnish additional information.

(4) The directions and requirements given or imposed under sub-paragraphs (2) and (3) may differ as between different applications.

(5) Any information to be furnished to the Department under this paragraph shall, if it so requires, be in such form or verified in such manner as it may specify.

(6) Every application shall be accompanied by a copy of the applicant's rules and of any guidance issued by the applicant which is intended to have continuing effect and is issued in writing or other legible form.

Grant and refusal of recognition

2.—(1) The Department may, on an application duly made in accordance with paragraph 1 and after being furnished with all such information as it may require under that paragraph, make or refuse to make an order (a "recognition order") declaring the applicant to be a recognised supervisory body for the purposes of Part III of this Order.

(2) The Department shall not make a recognition order unless it appears to it, from the information furnished by the body and having regard to any other information in its possession, that the requirements of Part II of this Schedule are satisfied as respects that body.

(3) The Department may refuse to make a recognition order in respect of a body if it considers that its recognition is unnecessary having regard to the existence of one or more other bodies which maintain and enforce rules as to the appointment and conduct of company auditors and which have been or are likely to be recognised.

(4) Where the Department refuses an application for a recognition order it shall give the applicant a written notice to that effect specifying which requirements in the opinion of the Department are not satisfied or stating that the application is refused on the ground mentioned in sub-paragraph (3).

(5) A recognition order shall state the date on which it takes effect.

Revocation of recognition

3.—(1) A recognition order may be revoked by a further order made by the Department if at any time it appears to it—

- (a) that any requirement of Part II of this Schedule is not satisfied in the case of the body to which the recognition order relates ("the recognised body"),
- (b) that the recognised body has failed to comply with any obligation to which it is subject by virtue of Part III of this Order, or
- (c) that the continued recognition of the body is undesirable having regard to the existence of one or more other bodies which have been or are to be recognised.

(2) An order revoking a recognition order shall state the date on which it takes effect and that date shall not be earlier than 3 months after the day on

which the revocation order is made.

(3) Before revoking a recognition order the Department shall give written notice of its intention to do so to the recognised body, take such steps as it considers reasonably practicable for bringing the notice to the attention of members of the body and publish it in such manner as it thinks appropriate for bringing it to the attention of any other persons who are in its opinion likely to be affected.

(4) A notice under sub-paragraph (3) shall state the reasons for which the Department proposes to act and give particulars of the rights conferred by sub-paragraph (5).

(5) A body on which a notice is served under sub-paragraph (3), any member of the body and any other person who appears to the Department to be affected may within 3 months after the date of service or publication, or within such longer time as the Department may allow, make written representations to the Department and, if desired, oral representations to a person appointed for that purpose by the Department; and the Department shall have regard to any representations made in accordance with this sub-paragraph in determining whether to revoke the recognition order.

(6) If in any case the Department considers it essential to do so in the public interest it may revoke a recognition order without regard to the restriction imposed by sub-paragraph (2) and notwithstanding that no notice has been given or published under sub-paragraph (3) or that the time for making representations in pursuance of such a notice has not expired.

(7) An order revoking a recognition order may contain such transitional provisions as the Department thinks necessary or expedient.

(8) A recognition order may be revoked at the request or with the consent of the recognised body and any such revocation shall not be subject to the restrictions imposed by sub-paragraphs (1) and (2) or the requirements of sub-paragraphs (3) to (5).

(9) On making an order revoking a recognition order the Department shall give the body written notice of the making of the order, take such steps as it considers reasonably practicable for bringing the making of the order to the attention of members of the body and publish a notice of the making of the order in such manner as it thinks appropriate for bringing it to the attention of any other persons who are in its opinion likely to be affected.

PART II

REQUIREMENTS FOR RECOGNITION

Holding of appropriate qualification

4.—(1) The body must have rules to the effect that a person is not eligible for appointment as a company auditor unless—

(a) in the case of an individual, he holds an appropriate qualification;

(b) in the case of a firm—

(i) the individuals responsible for company audit work on behalf of the firm hold an appropriate qualification, and

(ii) the firm is controlled by qualified persons (see paragraph 5).

(2) This does not prevent the body from imposing more stringent requirements.

(3) A firm which has ceased to comply with the conditions mentioned in sub-paragraph (1)(b) may be permitted to remain eligible for appointment as a company auditor for a period of not more than 3 months.

5.—(1) The following provisions explain what is meant in paragraph 4(1)(b)(ii) by a firm being “controlled by qualified persons”.

(2) For this purpose references to a person being qualified are, in relation to an individual, to his holding an appropriate qualification, and in relation to a firm, to its being eligible for appointment as a company auditor.

(3) A firm shall be treated as controlled by qualified persons if, and only if—

- (a) a majority of the members of the firm are qualified persons, and
- (b) where the firm’s affairs are managed by a board of directors, committee or other management body, a majority of the members of that body are qualified persons or, if the body consists of two persons only, at least one of them is a qualified person.

(4) A majority of the members of a firm means—

- (a) where under the firm’s constitution matters are decided upon by the exercise of voting rights, members holding a majority of the rights to vote on all, or substantially all, matters;
- (b) in any other case, members having such rights under the constitution of the firm as enable them to direct its overall policy or alter its constitution.

(5) A majority of the members of the management body of a firm means—

- (a) where matters are decided at meetings of the management body by the exercise of voting rights, members holding a majority of the rights to vote on all, or substantially all, matters at such meetings;
- (b) in any other case, members having such rights under the constitution of the firm as enable them to direct its overall policy or alter its constitution.

(6) The provisions of paragraphs 5 to 11 of Schedule 10A to the 1986 Order (rights to be taken into account and attribution of rights) apply for the purposes of this paragraph.

Auditors to be fit and proper persons

6.—(1) The body must have adequate rules and practices designed to ensure that the persons eligible under its rules for appointment as a company auditor are fit and proper persons to be so appointed.

(2) The matters which the body may take into account for this purpose in relation to a person must include—

- (a) any matter relating to any person who is or will be employed by or associated with him for the purposes of or in connection with company audit work; and
- (b) in the case of a body corporate, any matter relating to any director or controller of the body, to any other body corporate in the same group or to any director or controller of any such other body; and
- (c) in the case of a partnership, any matter relating to any of the partners, any director or controller of any of the partners, any body corporate in the same group as any of the partners and any director or controller of any such other body.

(3) In sub-paragraph (2)(b) and (c) “controller”, in relation to a body corporate, means a person who either alone or with any associate or associates is entitled to exercise or control the exercise of 15 per cent. or more of the rights to vote on all, or substantially all, matters at general meetings of the body or another body corporate of which it is a subsidiary.

Professional integrity and independence

7.—(1) The body must have adequate rules and practices designed to ensure—

- (a) that company audit work is conducted properly and with integrity, and
- (b) that persons are not appointed company auditor in circumstances in which they have any interest likely to conflict with the proper conduct of the audit.

(2) The body must also have adequate rules and practices designed to ensure that no firm is eligible under its rules for appointment as a company auditor unless the firm has arrangements to prevent—

- (a) individuals who do not hold an appropriate qualification, and
- (b) persons who are not members of the firm,

from being able to exert any influence over the way in which an audit is conducted in circumstances in which that influence would be likely to affect the independence or integrity of the audit.

Technical standards

8. The body must have rules and practices as to the technical standards to be applied in company audit work and as to the manner in which those standards are to be applied in practice.

Procedures for maintaining competence

9. The body must have rules and practices designed to ensure that persons eligible under its rules for appointment as a company auditor continue to maintain an appropriate level of competence in the conduct of company audits.

Monitoring and enforcement

10.—(1) The body must have adequate arrangements and resources for the effective monitoring and enforcement of compliance with its rules.

(2) The arrangements for monitoring may make provision for that function to be performed on behalf of the body (and without affecting its responsibility) by any other body or person who is able and willing to perform it.

Membership, eligibility and discipline

11. The rules and practices of the body relating to—

- (a) the admission and expulsion of members,
 - (b) the grant and withdrawal of eligibility for appointment as a company auditor, and
 - (c) the discipline it exercises over its members,
- must be fair and reasonable and include adequate provision for appeals.

Investigation of complaints

12.—(1) The body must have effective arrangements for the investigation of complaints—

- (a) against persons who are eligible under its rules to be appointed company auditor, or
 - (b) against the body in respect of matters arising out of its functions as a supervisory body.
- (2) The arrangements may make provision for the whole or part of that function to be performed by and to be the responsibility of a body or person independent of the body itself.

Meeting of claims arising out of audit work

13.—(1) The body must have adequate rules or arrangements designed to ensure that persons eligible under its rules for appointment as a company auditor take such steps as may reasonably be expected of them to secure that they are able to meet claims against them arising out of company audit work.

(2) This may be achieved by professional indemnity insurance or other appropriate arrangements.

Register of auditors and other information to be made available

14. The body must have rules requiring persons eligible under its rules for appointment as a company auditor to comply with any obligations imposed on them by regulations under Article 37 or 38.

Taking account of costs of compliance

15. The body must have satisfactory arrangements for taking account, in framing its rules, of the cost to those to whom the rules would apply of complying with those rules and any other controls to which they are subject.

Promotion and maintenance of standards

16. The body must be able and willing to promote and maintain high standards of integrity in the conduct of company audit work and to cooperate, by the sharing of information and otherwise, with the Department and any other authority, body or person having responsibility in the United Kingdom for the qualification, supervision or regulation of auditors.

Article 35(4)

SCHEDULE 12

RECOGNITION OF PROFESSIONAL QUALIFICATION

PART I

GRANT AND REVOCATION OF RECOGNITION

Application for recognition of professional qualification

1.—(1) A qualifying body may apply to the Department for an order declaring a qualification offered by it to be a recognised professional qualification for the purposes of Part III of this Order.

(2) Any such application—

(a) shall be made in such manner as the Department may direct, and

(b) shall be accompanied by such information as the Department may reasonably require for the purpose of determining the application.

(3) At any time after receiving an application and before determining it the Department may require the applicant to furnish additional information.

(4) The directions and requirements given or imposed under subparagraphs (2) and (3) may differ as between different applications.

(5) Any information to be furnished to the Department under this Article shall, if it so requires, be in such form or verified in such manner as it may specify.

In the case of examination standards, the verification required may include independent moderation of the examinations over such period as the Department considers necessary.

(6) Every application shall be accompanied by a copy of the applicant's rules and of any guidance issued by it which is intended to have continuing effect and is issued in writing or other legible form.

2.—(1) The Department may, on an application duly made in accordance with paragraph 1 and after being furnished with all such information as it may require under that paragraph, make or refuse to make an order (a "recognition order") declaring the qualification in respect of which the application was made to be a recognised professional qualification for the purposes of Part III of this Order.

In Part III of this Order a "recognised qualifying body" means a qualifying body offering a recognised professional qualification.

(2) The Department shall not make a recognition order unless it appears to it from the information furnished by the applicant and having regard to any other information in its possession, that the requirements of Part II of this Schedule are satisfied as respects the qualification.

(3) Where the Department refuses an application for a recognition order it shall give the applicant a written notice to that effect specifying which requirements, in its opinion, are not satisfied.

(4) A recognition order shall state the date on which it takes effect.

Revocation of recognition

3.—(1) A recognition order may be revoked by a further order made by the Department if at any time it appears to it—

- (a) that any requirement of Part II of this Schedule is not satisfied in relation to the qualification to which the recognition order relates, or
- (b) that the qualifying body has failed to comply with any obligation to which it is subject by virtue of Part III of this Order.

(2) An order revoking a recognition order shall state the date on which it takes effect and that date shall not be earlier than 3 months after the day on which the revocation order is made.

(3) Before revoking a recognition order the Department shall give written notice of its intention to do so to the qualifying body, take such steps as it considers reasonably practicable for bringing the notice to the attention of persons holding the qualification or in the course of studying for it and publish it in such manner as it thinks appropriate for bringing it to the attention of any other persons who are in its opinion likely to be affected.

(4) A notice under sub-paragraph (3) shall state the reasons for which the Department proposes to act and give particulars of the rights conferred by sub-paragraph (5).

(5) A body on which a notice is served under sub-paragraph (3), any person holding the qualification or in the course of studying for it and any other person who appears to the Department to be affected may within 3 months after the date of service or publication, or within such longer time as

the Department may allow, make written representations to the Department and, if desired, oral representations to a person appointed for that purpose by the Department; and the Department shall have regard to any representations made in accordance with this sub-paragraph in determining whether to revoke the recognition order.

(6) If in any case the Department considers it essential to do so in the public interest it may revoke a recognition order without regard to the restriction imposed by sub-paragraph (2) and notwithstanding that no notice has been given or published under sub-paragraph (3) or that the time for making representations in pursuance of such a notice has not expired.

(7) An order revoking a recognition order may contain such transitional provisions as the Department thinks necessary or expedient.

(8) A recognition order may be revoked at the request or with the consent of the qualifying body and any such revocation shall not be subject to the restrictions imposed by sub-paragraphs (1) and (2) or the requirements of sub-paragraphs (3) to (5).

(9) On making an order revoking a recognition order the Department shall give the qualifying body written notice of the making of the order, take such steps as it considers reasonably practicable for bringing the making of the order to the attention of persons holding the qualification or in the course of studying for it and publish a notice of the making of the order in such manner as it thinks appropriate for bringing it to the attention of any other persons who are in its opinion likely to be affected.

PART II

REQUIREMENTS FOR RECOGNITION

Entry requirements

4.—(1) The qualification must only be open to persons who have attained university entrance level or have a sufficient period of professional experience.

(2) In relation to a person who has not been admitted to a university or other similar establishment in the United Kingdom, attaining university entrance level means—

- (a) being educated to such a standard as would entitle him to be considered for such admission on the basis of—
 - (i) academic or professional qualifications obtained in the United Kingdom and recognised by the Department to be of an appropriate standard, or
 - (ii) academic or professional qualifications obtained outside the United Kingdom which the Department considers to be of an equivalent standard; or
- (b) being assessed on the basis of written tests of a kind appearing to the Department to be adequate for the purpose, with or without oral examination, as of such a standard of ability as would entitle him to be considered for such admission.

(3) The assessment, tests and oral examination referred to in sub-paragraph (2)(b) may be conducted by the qualifying body or by some other body approved by the Department.

Course of theoretical instruction

5. The qualification must be restricted to persons who have completed a course of theoretical instruction in the subjects prescribed for the purposes of paragraph 7 or have a sufficient period of professional experience.

Sufficient period of professional experience

6.—(1) The references in paragraphs 4 and 5 to a sufficient period of professional experience are to not less than seven years' experience in a professional capacity in the fields of finance, law and accountancy.

(2) Periods of theoretical instruction in the fields of finance, law and accountancy may be deducted from the required period of professional experience, provided the instruction—

(a) lasted at least one year, and

(b) is attested by an examination recognised by the Department for the purposes of this paragraph;

but the period of professional experience may not be so reduced by more than four years.

(3) The period of professional experience together with the practical training required in the case of persons satisfying the requirement in paragraph 5 by virtue of having a sufficient period of professional experience must not be shorter than the course of theoretical instruction referred to in that paragraph and the practical training required in the case of persons satisfying the requirement of that paragraph by virtue of having completed such a course.

Examination

7.—(1) The qualification must be restricted to persons who have passed an examination (at least part of which is in writing) testing—

(a) theoretical knowledge of the subjects prescribed for the purposes of this paragraph by regulations made by the Department, and

(b) ability to apply that knowledge in practice,

and requiring a standard of attainment at least equivalent to that required to obtain a degree from a university or similar establishment in the United Kingdom.

(2) The qualification may be awarded to a person without his theoretical knowledge of a subject being tested by examination if he has passed a university or other examination of equivalent standard in that subject or holds a university degree or equivalent qualification in it.

(3) The qualification may be awarded to a person without his ability to apply his theoretical knowledge of a subject in practice being tested by examination if he has received practical training in that subject which is attested by an examination or diploma recognised by the Department for the purposes of this paragraph.

(4) Regulations under this paragraph shall be subject to negative resolution.

Practical training

8.—(1) The qualifications must be restricted to persons who have completed at least three years' practical training of which—

(a) part was spent being trained in company audit work, and

(b) a substantial part was spent being trained in company audit work or other audit work of a description approved by the Department as being similar to company audit work.

1985 c. 6 For this purpose "company audit work" includes the work of a person appointed as auditor under the Companies Act 1985 or under the law of a country or territory outside the United Kingdom where it appears to the Department that the law and practice with respect to the audit of company accounts is similar to that in the United Kingdom.

(2) The training must be given by persons approved by the body offering the qualification as persons as to whom the body is satisfied, in the light of undertakings given by them and the supervision to which they are subject (whether by the body itself or some other body or organisation), that they will provide adequate training.

(3) At least two-thirds of the training must be given by a fully-qualified auditor, that is, a person—

- (a) eligible in accordance with Part III of this Order to be appointed as a company auditor, or
- (b) satisfying the corresponding requirements of the law of Great Britain or another member State of the European Economic Community.

The body offering the qualification

9.—(1) The body offering the qualification must have—

- (a) rules and arrangements adequate to ensure compliance with the requirements of paragraphs 4 to 8, and
- (b) adequate arrangements for the effective monitoring of its continued compliance with those requirements.

(2) The arrangements must include arrangements for monitoring the standard of its examinations and the adequacy of the practical training given by the persons approved by it for that purpose.

Article 48(6)

SCHEDULE 13

SUPPLEMENTARY PROVISIONS WITH RESPECT TO DELEGATION ORDER

Introductory

1. The following provisions have effect in relation to a body established by a delegation order under Article 48; and any power to make provision by order is to make provision by order under that Article.

Status

2. The body shall not be regarded as acting on behalf of the Crown and its members, officers and employees shall not be regarded as Crown servants.

Name, members and chairman

3.—(1) The body shall be known by such name as may be specified in the delegation order.

(2) The body shall consist of such persons (not being less than eight) as the Department may appoint after such consultation as it thinks appropriate; and the chairman of the body shall be such person as the Department may appoint from amongst its members.

(3) The Department may make provision by order as to the terms on which the members of the body are to hold and vacate office and as to the

terms on which a person appointed as chairman is to hold and vacate the office of chairman.

Financial provisions

4.—(1) The body shall pay to its chairman and members such remuneration, and such allowances in respect of expenses properly incurred by them in the performance of their duties, as the Department may determine.

(2) As regards any chairman or member in whose case the Department so determines, the body shall pay or make provision for the payment of—

(a) such pension, allowance or gratuity to or in respect of that person on his retirement or death, or

(b) such contributions or other payment towards the provision of such a pension, allowance or gratuity,

as the Department may determine.

(3) Where a person ceases to be a member of the body otherwise than on the expiry of his term of office and it appears to the Department that there are special circumstances which make it right for him to receive compensation, the body shall make a payment to him by way of compensation of such amount as the Department may determine.

Proceedings

5.—(1) The delegation order may contain such provision as the Department considers appropriate with respect to the proceedings of the body.

(2) The order may, in particular—

(a) authorise the body to discharge any functions by means of committees consisting wholly or partly of members of the body;

(b) provide that the validity of proceedings of the body, or of any such committee, is not affected by any vacancy among the members or any defect in the appointment of any member.

Fees

6.—(1) The body may retain fees payable to it.

(2) The fees shall be applied for meeting the expenses of the body in discharging its functions and for any purposes incidental to those functions.

(3) Those expenses include any expenses incurred by the body on such staff, accommodation, services and other facilities as appear to it to be necessary or expedient for the proper performance of its functions.

(4) In prescribing the amount of fees in the exercise of the functions transferred to it the body shall prescribe such fees as appear to it sufficient to defray those expenses, taking one year with another.

(5) Any exercise by the body of the power to prescribe fees requires the approval of the Department; and the Department may, after consultation with the body, by order vary or revoke any regulations made by the body prescribing fees.

Legislative functions

7.—(1) Regulations made by the body in the exercise of the functions transferred to it shall be made by instrument in writing.

(2) The instrument shall specify the provision of Part III of this Order under which it is made.

(3) The Department may by order impose such requirements as it thinks necessary or expedient as to the circumstances and manner in which the body must consult on any regulations it proposes to make.

8.—(1) Immediately after an instrument is made it shall be printed and made available to the public with or without payment.

(2) A person shall not be taken to have contravened any regulation if he shows that at the time of the alleged contravention the instrument containing the regulation had not been made available as required by this paragraph.

9.—(1) The production of a printed copy of an instrument purporting to be made by the body on which is endorsed a certificate signed by an officer of the body authorised by it for the purpose and stating—

(a) that the instrument was made by the body,

(b) that the copy is a true copy of the instrument, and

(c) that on a specified date the instrument was made available to the public as required by paragraph 8,

is prima facie evidence of the facts stated in the certificate.

(2) A certificate purporting to be signed as mentioned in sub-paragraph (1) shall be deemed to have been duly signed unless the contrary is shown.

(3) Any person wishing in any legal proceedings to cite an instrument made by the body may require the body to cause a copy of it to be endorsed with such a certificate as is mentioned in this paragraph.

Report and accounts

10.—(1) The body shall at least once in each year for which the delegation order is in force make a report to the Department on the discharge of the functions transferred to it and on such other matters as the Department may by order require.

(2) The Department shall lay before the Assembly copies of each report received by it under this paragraph.

(3) The Department may, with the consent of the Department of Finance and Personnel, give directions to the body with respect to its accounts and the audit of its accounts and it is the duty of the body to comply with the directions.

(4) A person shall not be appointed auditor of the body unless he is eligible for appointment as a company auditor under Article 28.

Other supplementary provisions

11.—(1) The transfer of a function to a body established by a delegation order does not affect anything previously done in the exercise of the function transferred; and the resumption of a function so transferred does not affect anything previously done in exercise of the function resumed.

(2) The Department may by order make such transitional and other supplementary provision as it thinks necessary or expedient in relation to the transfer or resumption of a function.

(3) The provision that may be made in connection with the transfer of a function includes, in particular, provision—

(a) for modifying or excluding any provision of Part III of this Order in its application to the function transferred;

- (b) for applying to the body established by the delegation order, in connection with the function transferred, any provision applying to the Department which is contained in or made under any other statutory provision;
 - (c) for the transfer of any property, rights or liabilities from the Department to that body;
 - (d) for the carrying on and completion by that body of anything in process of being done by the Department when the order takes effect;
 - (e) for the substitution of that body for the Department in any instrument, contract or legal proceedings.
- (4) The provision that may be made in connection with the resumption of a function includes, in particular, provision—
- (a) for the transfer of any property, rights or liabilities from that body to the Department;
 - (b) for the carrying on and completion by the Department of anything in process of being done by that body when the order takes effect;
 - (c) for the substitution of the Department for that body in any instrument, contract or legal proceedings.
12. Where a delegation order is revoked, the Department may by order make provision—
- (a) for the payment of compensation to persons ceasing to be employed by the body established by the delegation order; and
 - (b) as to the winding up and dissolution of the body.

SCHEDULE 14

Article 49(1)

SUPERVISORY AND QUALIFYING BODIES: RESTRICTIVE PRACTICES

PART I

PREVENTION OF RESTRICTIVE PRACTICES

Refusal of recognition on grounds related to competition

1.—(1) The Department shall before deciding whether to make a recognition order in respect of a supervisory body or professional qualification send to the Director General of Fair Trading (in this Schedule referred to as “the Director”) a copy of the rules and of any guidance which the Department is required to consider in making that decision together with such other information as the Department considers will assist the Director.

(2) The Director shall consider whether the rules or guidance have, or are intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition, and shall report to the Department; and the Department shall have regard to his report in deciding whether to make a recognition order.

(3) The Department shall not make a recognition order if it appears to it that the rules and any guidance of which copies are furnished with the application have, or are intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition, unless it appears to it that the effect is reasonably justifiable having regard to the purposes of Part III of this Order.

Notification of changes to rules or guidance

2.—(1) Where a recognised supervisory or qualifying body amends, revokes or adds to its rules or guidance in a manner which may reasonably be regarded as likely—

- (a) to restrict, distort or prevent competition to any significant extent, or
- (b) otherwise to affect the question whether the recognition order granted to the body should continue in force,

it shall within 7 days give the Department written notice of the amendment, revocation or addition.

(2) Notice need not be given under sub-paragraph (1) of the revocation of guidance not intended to have continuing effect or issued otherwise than in writing or other legible form, or of any amendment or addition to guidance which does not result in or consist of guidance which is intended to have continuing effect and is issued in writing or other legible form.

Continuing scrutiny by the Director General of Fair Trading

3.—(1) The Director shall keep under review the rules made or guidance issued by a recognised supervisory or qualifying body, and if he is of the opinion that any rules or guidance of such a body have, or are intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition, he shall report his opinion to the Department, stating what in his opinion the effect is or is likely to be.

(2) The Department shall send to the Director copies of any notice received by it under paragraph 2, together with such other information as it considers will assist the Director.

(3) The Director may report to the Department his opinion that any matter mentioned in such a notice does not have, and is not intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition.

(4) The Director may from time to time consider whether—

- (a) any practices of a recognised supervisory or qualifying body in its capacity as such, or
- (b) any relevant practices required or contemplated by the rules or guidance of such a body or otherwise attributable to its conduct in its capacity as such,

have, or are intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition and, if so, what that effect is or is likely to be; and if he is of that opinion he shall make a report to the Department stating his opinion and what the effect is or is likely to be.

(5) The practices relevant for the purposes of sub-paragraph (4)(b) in the case of a recognised supervisory body are practices engaged in for the purposes of, or in connection with, appointment as a company auditor or the conduct of company audit work by persons who—

- (a) are eligible under its rules for appointment as a company auditor, or
- (b) hold an appropriate qualification and are directors or other officers of bodies corporate which are so eligible or partners in, or employees of, partnerships which are so eligible.

(6) The practices relevant for the purposes of sub-paragraph (4)(b) in the case of a recognised qualifying body are—

- (a) practices engaged in by persons in the course of seeking to obtain a recognised professional qualification from that body, and
- (b) practices engaged in by persons approved by the body for the purposes of giving practical training to persons seeking such a qualification and which relate to such training.

Investigatory powers of the Director

4.—(1) The following powers are exercisable by the Director for the purpose of investigating any matter in connection with his functions under paragraph 1 or 3.

(2) The Director may by a notice in writing require any person to produce, at a time and place specified in the notice, to the Director or to any person appointed by him for the purpose, any documents which are specified or described in the notice and which are documents in his custody or under his control and relating to any matter relevant to the investigation.

(3) The Director may by a notice in writing require any person to furnish to the Director such information as may be specified or described in the notice, and specify the time within which and the manner and form in which any such information is to be furnished.

(4) A person shall not under this paragraph be required to produce any document or disclose any information which he would be entitled to refuse to produce or disclose on grounds of legal professional privilege in proceedings in the High Court.

(5) Subsections (6) to (8) of section 85 of the Fair Trading Act 1973 1973 c. 41 (enforcement provisions) apply in relation to a notice under this paragraph as they apply in relation to a notice under subsection (1) of that section but as if, in subsection (7) of that section, for the words from “any one” to “the Commission” there were substituted “the Director”.

Publication of Director's reports

5.—(1) The Director may, if he thinks fit, publish any report made by him under paragraph 1 or 3.

(2) He shall exclude from a published report, so far as practicable, any matter which relates to the affairs of a particular person (other than the supervisory or qualifying body concerned) the publication of which would or might in his opinion seriously and prejudicially affect the interests of that person.

Powers exercisable by the Department in consequence of report

6.—(1) The powers conferred by this paragraph are exercisable by the Department if, having received and considered a report from the Director under paragraph 3(1) or (4), it appears to the Department that—

(a) any rules made or guidance issued by a recognised supervisory or qualifying body, or

(b) any such practices as are mentioned in paragraph 3(4),

have, or are intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition and that that effect is greater than is reasonably justifiable having regard to the purposes of Part III of this Order.

(2) The powers are—

- (a) to revoke the recognition order granted to the body concerned,

- (b) to direct it to take specified steps for the purpose of securing that the rules, guidance or practices in question do not have the effect mentioned in sub-paragraph (1), and
 - (c) to make alterations in the rules of the body for that purpose.
- (3) The provisions of paragraph 3(2) to (5), (7) and (9) of Schedule 11 or, as the case may be, Schedule 12 have effect in relation to the revocation of a recognition order under sub-paragraph 2(a) as they have effect in relation to the revocation of such an order under that Schedule.
- (4) Before the Department exercises the power conferred by sub-paragraph (2)(b) or (c) it shall—
- (a) give written notice of its intention to do so to the body concerned and take such steps (whether by publication or otherwise) as it thinks appropriate for bringing the notice to the attention of any other person who in its opinion is likely to be affected by the exercise of the power, and
 - (b) have regard to any representation made within such time as it considers reasonable by the body or any such other person.
- (5) A notice under sub-paragraph (4) shall give particulars of the manner in which the Department proposes to exercise the power in question and state the reasons for which it proposes to act; and the statement of reasons may include matters contained in any report received by it under paragraph 3.

Supplementary provisions

- 7.—(1) A direction under paragraph 6 is, on the application of the Department, enforceable by injunction.
- (2) The fact that any rules made by a recognised supervisory or qualifying body have been altered by the Department, or pursuant to a direction of the Department, under paragraph 6 does not preclude their subsequent alteration or revocation by that body.
- (3) In determining for the purposes of this Schedule whether any guidance has or is likely to have, any particular effect the Department and the Director may assume that the persons to whom it is addressed will act in conformity with it.

PART II

CONSEQUENTIAL EXEMPTIONS FROM COMPETITION LAW

Fair Trading Act 1973 (c. 41)

- 8.—(1) For the purpose of determining whether a monopoly situation within the meaning of the Fair Trading Act 1973 exists by reason of the circumstances mentioned in section 7(1)(c) of that Act (supply of services by or for group of two or more persons), no account shall be taken of—
- (a) the rules of or guidance issued by a recognised supervisory or qualifying body, or
 - (b) conduct constituting such a practice as is mentioned in paragraph 3(4).
- (2) Where a recognition order is revoked there shall be disregarded for the purpose mentioned in sub-paragraph (1) any such conduct as is mentioned in that sub-paragraph which occurred while the order was in force.

(3) Where on a monopoly reference under section 50 or 51 of the Fair Trading Act 1973 falling within section 49 of that Act (monopoly reference not limited to the facts) the Monopolies and Mergers Commission find that a monopoly situation within the meaning of that Act exists and—

(a) that the person (or, if more than one, any of the persons) in whose favour it exists is—

(i) a recognised supervisory or qualifying body, or

(ii) a person of a description mentioned in paragraph 3(5) or (6), or

(b) that any such person's conduct in doing anything to which the rules of such a body relate is subject to guidance issued by the body,

the Commission in making their report on that reference shall exclude from their consideration the question whether the rules or guidance of the body concerned, or the acts or omissions of that body in its capacity as such, operate or may be expected to operate against the public interest.

Restrictive Trade Practices Act 1976 (c. 34)

9.—(1) The Restrictive Trade Practices Act 1976 does not apply to an agreement for the constitution of a recognised supervisory or qualifying body in so far as it relates to rules of or guidance issued by the body, and incidental matters connected therewith, including any term deemed to be contained in it by virtue of section 8(2) or 16(3) of that Act.

(2) Nor does that Act apply to an agreement the parties to which consist of or include—

(a) a recognised supervisory or qualifying body, or

(b) any such person as is mentioned in paragraph 3(5) or (6),

by reason that it includes any terms the inclusion of which is required or contemplated by the rules or guidance of that body.

(3) Where an agreement ceases by virtue of this paragraph to be subject to registration—

(a) the Director shall remove from the register maintained by him under the Act of 1976 any particulars which are entered or filed in that register in respect of the agreement, and

(b) any proceedings in respect of the agreement which are pending before the Restrictive Practices Court shall be discontinued.

(4) Where a recognition order is revoked, sub-paragraphs (1) and (2) shall continue to apply for a period of 6 months beginning with the day on which the revocation takes effect, as if the order were still in force.

(5) Where an agreement which has been exempt from registration by virtue of this paragraph ceases to be exempt in consequence of the revocation of a recognition order, the time within which particulars of the agreement are to be furnished in accordance with section 24 of and Schedule 2 to the Act of 1976 shall be the period of one month beginning with the day on which the agreement ceased to be exempt from registration.

(6) Where in the case of an agreement registered under the 1976 Act a term ceases to fall within sub-paragraph (2) in consequence of the revocation of a recognition order and particulars of that term have not previously been furnished to the Director under section 24 of that Act, those particulars shall be furnished to him within the period of one month beginning with the day on which the term ceased to fall within that sub-paragraph.

Competition Act 1980 (c. 21)

10.—(1) No course of conduct constituting any such practice as is mentioned in paragraph 3(4) shall constitute an anti-competitive practice for the purposes of the Competition Act 1980.

(2) Where a recognition order is revoked there shall not be treated as an anti-competitive practice for the purposes of that Act any such course of conduct as is mentioned in sub-paragraph (1) which occurred while the order was in force.

Articles 26
and 57.

SCHEDULE 15

REPEALS

PART I

REPEALS CONSEQUENTIAL ON PART II OF THIS ORDER

Chapter or Number	Short Title	Extent of Repeal
1986 NI 6.	The Companies (Northern Ireland) Order 1986.	<p>In Article 1(2) the words "Except as provided by Article 251(6),".</p> <p>In Article 2(3) the definition of "authorised institution".</p> <p>Article 428(2)(b).</p> <p>In Schedule 2—</p> <p>(a) in paragraph 1(1), the words "paragraph 60(2) of Schedule 4, or paragraph 19(3) of Schedule 9";</p> <p>(b) paragraph 1(5);</p> <p>(c) in paragraph 2(1), the word "33,";</p> <p>(d) paragraph 2(2);</p> <p>(e) in paragraph 3(1), the words "paragraph 60(2) of Schedule 4 or paragraph 19(3) of Schedule 9";</p> <p>(f) paragraph 3(3);</p> <p>(g) in paragraph 4(1), the words "(whether as personal representative or otherwise)";</p>

1987 c. 22.	The Banking Act 1987.	<p>(h) in paragraph 4(2), the words “paragraph 60(2) of Schedule 4 or paragraph 19(3) of Schedule 9”.</p> <p>In Schedule 4, paragraphs 50(6), 60 to 70, 74, 75, 77 to 80, 86, 89 to 91 and 93.</p> <p>In Schedule 6, paragraph 4.</p> <p>In Schedule 6, Part III.</p> <p>In Schedule 9—</p> <p>(a) paragraphs 1, 13(3) and (18), 18(5), 19(3) to (8) and 21 to 26;</p> <p>(b) in paragraph 27(4), the words “of Part I”;</p> <p>(c) in paragraph 28, in sub-paragraph (1) the words “to which Part II of the Insurance Companies Act 1982 applies” and in sub-paragraph (3) the words “of Part I”;</p> <p>(d) paragraphs 29 to 31.</p> <p>In Schedule 11—</p> <p>(a) paragraph 4(b) and (c);</p> <p>(b) paragraph 5(b).</p> <p>In Schedule 23 the entries relating to Articles 253(1), 253(2), 263(5) and 268(3).</p> <p>Section 90(2).</p> <p>In Schedule 6—</p> <p>(a) paragraph 28(1) to (7);</p>

THE COMPANIES (NI) ORDER 1990
SI 1990/593 (NI 5)

1987 NI 9.	The Industrial Relations (Northern Ireland) Order 1987.	(b) in paragraph 28(8) the words "and (1A)"; (c) paragraph 28(9), except in so far as it amends paragraphs 14(a) and 17(a) of Schedule 6 to the 1986 Order. Article 3(1).
1989 NI 19.	The Insolvency (Northern Ireland) Order 1989.	In Schedule 9, paragraphs 12 and 13.

PART II

REPEALS CONSEQUENTIAL ON PART III OF THIS ORDER

Chapter or Number	Short Title	Extent of Repeal
1986 NI 6.	The Companies (Northern Ireland) Order 1986.	Article 397. In Schedule 21 in the entry relating to Articles 392 to 401 in column 2 the word "qualifications". In Schedule 22 the entry relating to Article 397(9).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made for purposes corresponding to the purposes of Parts I and II of the Companies Act 1989 (c. 40).

The Order amends the law relating to company accounts and audit and makes new provision with respect to the persons eligible for appointment as company auditors.