

1990 No. 1392 (C.41)

COMPANIES

**The Companies Act 1989 (Commencement No. 6 and
Transitional and Saving Provisions) Order 1990**

Made - - - -

9th July 1990

The Secretary of State, in exercise of his powers under section 215(2), (3) and (4) of the Companies Act 1989(a), hereby makes the following Order -

Citation

1. This Order may be cited as the Companies Act 1989 (Commencement No. 6 and Transitional and Saving Provisions) Order 1990.

Provisions of the Companies Act 1989 commenced by this Order

2. In Part V of the Companies Act 1989:-

- (a) section 129 shall come into force on 1st November 1990;
- (b) section 130 and Schedule 17 shall come into force on 31st July 1990;
- (c) section 138 shall come into force on 31st July 1990 subject to the saving provision set out in article 5 below; and
- (d) section 144 and Schedule 18 shall come into force on 1st November 1990, subject to the transitional provisions set out in article 6 below.

3. Part IX of the Companies Act 1989 shall come into force on 1st November 1990.

4. In Part X of the Companies Act 1989:-

- (a) section 211(2), subject to the saving provision set out in article 7 below, and section 211(3) shall come into force on 31st July 1990; and
- (b) the repeals effected by Schedule 24 in or of:
 - (i) section 651(1) and Schedule 22 (in so far as Schedule 24 effects a repeal of the entry relating to section 36(4)) of the Companies Act 1985(b); and
 - (ii) Schedules 15 and 18 to the Building Societies Act 1986(c), together with section 212 so far as relating to those repeals, shall come into force on 31st July 1990.

Saving provision relating to section 138 of the Companies Act 1989

5. For the avoidance of doubt, section 345(3) of the Companies Act 1985 shall apply to section 138 of the Companies Act 1989 as it applies to an order made under section 345 of the Companies Act 1985.

Transitional provisions relating to section 144 of the Companies Act 1989

6.—(1) The new section 736 of the Companies Act 1985, inserted by section 144(1) of the Companies Act 1989 shall not have effect for the purposes of the provisions of the unamended Companies Act 1985 continued in force by paragraph 13 of Part II of Schedule 2 and paragraph 3 of Schedule 3 to the Companies Act 1989 (Commencement No. 4 and Transitional and Saving Provisions) Order 1990(a) and section 736 of the unamended Companies Act 1985 shall continue to apply for the purposes of those provisions.

(2) The new section 736 of the Companies Act 1985, inserted by section 144(1) of the Companies Act 1989 shall not have effect, and section 736 of the unamended Companies Act 1985 shall continue to apply, for the purposes of the statutory provisions amended by paragraphs 26 to 30 and 33 of Schedule 10 to the Companies Act 1989, if the new section 736 would otherwise apply to those provisions as a consequence of paragraph 1 of Schedule 3 to the Companies Act 1989 (Commencement No. 4 and Transitional and Saving Provisions) Order 1990.

(3) The new section 736, inserted by section 144(1) of the Companies Act 1989 shall, until 1st January 1993, not have effect for the purposes of Part VIII of the Building Societies Act 1986 and the provisions of that Part shall have effect, until that date, as if section 144 of the Companies Act 1989 had not been passed.

(4) For the purposes of this paragraph “the unamended Companies Act 1985” means that Act prior to its amendment by the provisions of the Companies Act 1989.

Saving provision relating to section 211 of the Companies Act 1989

7. Where an individual was appointed to act as an insolvency practitioner in relation to a building society within the meaning of the Building Societies Act 1986 before the commencement of subsection 211(2)(a) of the Companies Act 1989, the application of subsections (2) and (3) of section 390 of the Insolvency Act 1986(b) effected by the amendments made by subsection 211(2)(a) shall not prevent that individual from being qualified to act as an insolvency practitioner pursuant to that appointment for the purposes of Part XIII of the Insolvency Act 1986.

Amendment of the Companies Act 1985

8. The section 23 inserted by section 129 of the Companies Act 1989 into the Companies Act 1985 shall be amended, with effect from 1st November 1990, as follows:

- (a) in sub-section (4)(b), the words “1st November 1990” shall be substituted for the words “the commencement of section 129 of the Companies Act 1989”; and
- (b) in sub-sections (4) and (5), the words “1st November 1990” shall be substituted for the words “the commencement of that section” where they appear in those subsections.

9th July 1990

John Redwood
Parliamentary Under-Secretary of State,
Department of Trade and Industry

(a) S.I. 1990/355. (b) 1986 c.45.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force certain of the provisions of the Companies Act 1989.

Article 2 of this Order commences, in Part V of the 1989 Act, sections 129 (Membership of holding company), 130 together with Schedule 17 (Company contracts and execution of documents by companies), 138 (Increase of limits on certain exemptions in Part X of the Companies Act 1985) and section 144 together with Schedule 18 (new definitions of "subsidiary", "holding company" and "wholly-owned subsidiary"). Sections 129 and 144, together with Schedule 18, come into force on 1st November 1990 whilst sections 130 and 138 and Schedule 17 come into force on 31st July 1990.

Section 138 is commenced subject to a saving provision with respect to past events, which is set out in article 5 of the Order.

Section 144 and Schedule 18 are commenced subject to transitional provisions set out in article 6 of the Order. Those provisions, in outline, preserve the pre-existing definitions of "subsidiary", "holding company" and "wholly-owned subsidiary" for the purposes of the accounts of companies and certain other bodies for financial years commencing prior to 23rd December 1989 (in relation to which the Companies Act 1989 (Commencement No. 4 and Transitional and Saving Provisions) Order 1990 largely preserves the pre-1989 Act law on the content of accounts).

Article 3 of this Order brings into force Part IX of the Companies Act 1989 on 1st November 1990. Part IX enables provision to be made by Regulations for title to securities to be evidenced and transferred without a written instrument.

Article 4 of this Order brings into force on 31st July 1990 section 211(2) and (3) (Building Societies: miscellaneous amendments) and certain repeals effected by Schedule 24 and section 212. Section 211(2) and (3) are commenced subject to a saving provision set out in article 7 of the Order.

Article 8 of this Order inserts a reference to the actual date of commencement of section 129 of the 1989 Act into the new section 23 of the Companies Act 1985 inserted by that former section.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Companies Act 1989 have been brought into force by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Ss. 1 and 15 but only for the purpose of inserting a new section 251 into the Companies Act 1985 (subject to certain transitional and saving provisions)	1.3.1990	S.I. 1990/142
The remaining provisions of Part I (subject to important transitional and saving provisions) other than section 7 (in so far as it inserts a new section 233(5) into the Companies Act 1985), 11 (in so far as it inserts a new section 242A into the Companies Act 1985), 12 and 23 (in part).	1.4.1990 (save paragraph 19 of Schedule 10 which is commenced on 1.8.1990)	S.I. 1990/355
S.24 but only for the purposes of any provision brought into force by article 3 of S.I. 1990/142	1.3.1990	S.I. 1990/142
S.30	1.3.1990	S.I. 1990/142

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
S.31 but only for purposes relating to the recognition of supervisory bodies under Schedule 11 to the Companies Act 1989 ("the 1989 Act") and for the purpose of enabling the Secretary of State to approve a qualification under section 31(4) and (5) of the 1989 Act	1.3.1990	S.I. 1990/142
Ss. 32 and 33	1.3.1990	S.I. 1990/142
Ss. 37 to 40	1.3.1990	S.I. 1990/142
S. 41(1) and (4) but only for the purposes of an application under any provision brought into force by article 3 of S.I. 1990/142 or of any requirement imposed under any such provision	1.3.1990	S.I. 1990/142
S. 41(3)	1.3.1990	S.I. 1990/142
S. 41(5) and (6) but only for the purposes of S. 41(3) of the 1989 Act	1.3.1990	S.I. 1990/142
Ss. 42 to 44 but only for the purposes of any provision brought into force by article 3 of S.I. 1990/142	1.3.1990	S.I. 1990/142
S. 45	1.3.1990	S.I. 1990/142
S. 47(1)	1.3.1990	S.I. 1990/142
S. 48(1) and (2)	1.3.1990	S.I. 1990/142
S. 49 but only for the purposes of any provision brought into force by article 3 of S.I. 1990/142	1.3.1990	S.I. 1990/142
Ss. 50 and 51	1.3.1990	S.I. 1990/142
Ss. 52 to 54 but only for the purposes of any provision brought into force by article 3 of S.I. 1990/142	1.3.1990	S.I. 1990/142
Ss. 55 to 64	21.2.1990	S.I. 1990/142
S. 65(1)	21.2.1990	S.I. 1990/142
S. 65(2) except to the extent that it refers to Part VII of the 1989 Act and except, in the case of s. 65(2)(g), to the extent that the said paragraph refers to a body established under s. 46 of the 1989 Act	21.2.1990	S.I. 1990/142
S. 65(3) to (7)	21.2.1990	S.I. 1990/142
S. 66 to 74	21.2.1990	S.I. 1990/142
S. 75(1)	21.2.1990	S.I. 1990/142
S. 75(2)	25.1.1990	S.I. 1990/98
S. 75(3), insofar as it provides for the insertion in s. 180(1) of the Financial Services Act 1986 of a new paragraph (00)	25.1.1990	S.I. 1990/98
S. 75(3) except insofar as brought into force as referred to above, except to the extent that it refers to Part VII of the 1989 Act and except, in the case of s. 75(3)(c), to the extent that it refers to a body established by order under s. 46 of the 1989 Act.	21.2.1990	S.I. 1990/142

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
S. 75(4) insofar as it provides a definition of "public servant" for the purposes of the new s. 180(1) (00) of the Financial Services Act 1986	25.1.1990	S.I. 1990/98
S. 75(4) except insofar as brought into force as referred to above	21.2.1990	S.I. 1990/142
S. 75(6)	21.2.1990	S.I. 1990/142
S. 75(7)	25.1.1990	S.I. 1990/98
Ss. 76 to 79	21.2.1990	S.I. 1990/142
S. 80 except to the extent that it refers to Part VII of the 1989 Act	21.2.1990	S.I. 1990/142
S. 81(1)	21.2.1990	S.I. 1990/142
S. 81(2) except to the extent that it refers to Part VII of the 1989 Act	21.2.1990	S.I. 1990/142
S. 81(3) and (4)	21.2.1990	S.I. 1990/142
S. 81(5) except to the extent that it refers to Part VII of the 1989 Act	21.2.1990	S.I. 1990/142
Ss. 82 to 86	21.2.1990	S.I. 1990/142
S. 87(1) to (3)	21.2.1990	S.I. 1990/142
S. 87(4) except to the extent that it refers to Part VII of the 1989 Act	21.2.1990	S.I. 1990/142
S. 87(5) and (6)	21.2.1990	S.I. 1990/142
Ss. 88 to 91	21.2.1990	S.I. 1990/142
Sections 113 to 124 (subject to transitional and saving provisions)	1.4.1990	S.I. 1990/355
Sections 131 and 132 (subject, in the case of the former, a saving provision)	1.4.1990	S.I. 1990/355
Section 134(1) to (3), (5) and (6) (subject to certain provisions)	31.5.1990	S.I. 1990/713
Section 136 (subject to a transitional provision)	1.4.1990	S.I. 1990/355
Section 137(1); section 137(2) in part (subject to a transitional provision)	1.4.1990	S.I. 1990/355
S. 145 but only insofar as it relates to paragraphs 1, 8, 9, 12, 19 and 21 of Schedule 19 to the 1989 Act	1.3.1990	S.I. 1990/142
S. 145 but only insofar as it relates to paragraphs 15 to 18 of Schedule 19 to the 1989 Act	1.4.1990	S.I. 1990/355
S. 146	1.4.1990	S.I. 1990/142
S. 151	1.4.1990	S.I. 1990/142
S. 152	1.3.1990	S.I. 1990/142
S. 153 but only insofar as it relates to paragraphs 1, 13, 17, 21 and 26 of Schedule 20 to the 1989 Act	1.4.1990	S.I. 1990/142
S. 192 insofar as it inserts section 47A into the Financial Services Act 1986 (subject to transitional and saving provisions)	15.3.1990	S.I. 1990/354
S. 193 insofar as is necessary in order to enable regulations to be made under section 62A of, and paragraph 22A of Schedule 11 to, the	15.3.1990	S.I. 1990/354

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Financial Services Act 1986 (subject to transitional and saving provisions)		
Sections 194 to 200 (subject to transitional and saving provisions)	15.3.1990	S.I. 1990/354
Sections 203 to 205 (subject to transitional and saving provisions)	15.3.1990	S.I. 1990/354
S. 206(1) except in so far as it relates to the insertion by paragraph 32 of Schedule 23 to the 1989 Act of paragraph 13B into Schedule 11 of the Financial Services Act 1986 (subject to transitional and saving provisions)	15.3.1990	S.I. 1990/354
S. 206(2) to (4) (subject to transitional and saving provisions)	15.3.1990	S.I. 1990/354
S. 208	1.3.1990	S.I. 1990/142
S. 209	21.2.1990	S.I. 1990/142
S. 210	1.4.1990	S.I. 1990/142
S. 212 insofar as it relates to the repeals effected by Schedule 24 to the 1989 Act referred to below	On the dates referred to below in connection with Schedule 24	In the SIs listed below in connection with Schedule 24
Schedule 24 insofar as it relates to repeals in or of ss. 435, 440, 443, 446, 447, 449, 452 and 735A of the Companies Act 1985, ss. 94, 105, 179, 180, 198(1) and 199(9) of the Financial Services Act 1986 and s. 84(1) of the Banking Act 1987	21.2.1990	S.I. 1990/142
Schedule 24 insofar as it relates to the repeal in s. 21(2) of the Company Directors Disqualification Act 1986	1.3.1990	S.I. 1990/142
Schedule 24 insofar as it relates to the repeals in, or of, sections 48, 55, 119, 159 and 160 of, and paragraphs 4, 10 and 14 of Schedule 11 to the Financial Services Act 1986	15.3.1990	S.I. 1990/354
Schedule 24 insofar as it relates to repeals in or of ss. 46(3) and 85 of the Fair Trading Act 1973	1.4.1990	S.I. 1990/142
Schedule 24 insofar as it relates to repeals in or of section 42(6) of the Harbours Act 1964; sections 716, 717, 744 (in part) and 746 of, and Schedules 2, 4, 9, 11, 22 (in part) and 24 (in part) to, the Companies Act 1985; paragraphs 23 and 45 of Schedule 6 to the Insolvency Act 1985; and the entries in Part I of Schedule 13 to the Insolvency Act 1986 relating to sections 222(4) and 225	1.4.1990	S.I. 1990/355
Schedule 24 insofar as it relates to repeals in or of section 199(9) of, and paragraph 22 of Schedule 16 to, the Financial Services Act 1986	1.4.1990	S.I. 1990/355

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 24 insofar as it relates to repeals in or of sections 201, 202(1) and 209(1)(j) of the Companies Act 1985	31.5.1990	S.I. 1990/713
Ss. 213 to 215 insofar as they were not already in force at the time of the making of S.I. 1990/142	2.2.1990	S.I. 1990/142
S. 216	25.1.1990	S.I. 1990/98