

1990 No. 355 (C.13)

COMPANIES

**The Companies Act 1989 (Commencement No. 4 and
Transitional and Saving Provisions) Order 1990**

Made - - - - *26th February 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 and Interpretation

1. This Order may be cited as the Companies Act 1989 (Commencement No. 4 and Transitional and Saving Provisions) Order 1990.

2. In this Order:

- “the 1985 Act” means the Companies Act 1985(b);
- and
- “the 1989 Act” means the Companies Act 1989.

Provisions of the 1989 Act commenced by this Order

3. The provisions of Part I of the 1989 Act specified in the first column of Schedule 1 to this Order shall come into force:

- (a) in the case of paragraph 19 of Schedule 10 to the 1989 Act and section 23 of that Act so far as it relates to that paragraph, on 1st August 1990; and
- (b) in the case of the remaining provisions so specified, on 1st April 1990,

for the purposes specified in the second column of that Schedule, subject to the transitional and saving provisions set out in articles 6 to 9 of this Order.

4. In Part V of the 1989 Act:

- (a) sections 113 to 124 shall come into force on 1st April 1990, subject, in the case of sections 115 and 118 to 124, to the transitional and saving provisions set out in article 10 of this Order;
- (b) section 131 shall come into force on 1st April 1990, subject to the saving provision set out in article 11 of this Order;
- (c) section 132 shall come into force on 1st April 1990;
- (d) section 136 shall come into force on 1st April 1990 subject to the transitional provision set out in article 12 of this Order;
- (e) in section 137:
 - (i) sub-section (1) shall come into force on 1st April 1990; and
 - (ii) sub-section (2) shall come into force on 1st April 1990 for the purposes of a directors' report of a company (within the meaning of section 735 of the 1985 Act) but subject to the transitional provision set out in article 13 of this Order; and
- (f) paragraphs 15 to 18 of Schedule 19, and section 145 in so far as it extends to those paragraphs, shall come into force on 1st April 1990.

(a) 1989 c.40.

(b) 1985 c.6.

5.—(1) In Part X of the 1989 Act, the repeals effected by Schedule 24 in or of:

- (a) section 42(6) of the Harbours Act 1964(a) (subject to paragraph (2) below);
- (b) sections 716, 717, 744 (in so far as Schedule 24 omits the definition of “ authorised institution ” therein) and 746 of, and Schedules 2, 4, 9, 11, 22 (in so far as Schedule 24 effects a repeal in the entry relating to sections 384 to 393) and 24 (except in so far as Schedule 24 repeals the entries relating to sections 245(1) and (2), 365(3) and 389(10)) to, the Companies Act 1985 (subject to paragraph (2) below);
- (c) paragraphs 23 and 45 of Schedule 6 to the Insolvency Act 1985(b);
- (d) the entries in Part I of Schedule 13 to the Insolvency Act 1986(c) relating to sections 222(4) and 225; and
- (e) section 199(9) of, and paragraph 22 of Schedule 16 to, the Financial Services Act 1986(d),

together with section 212 so far as relating to those repeals, shall come into force, in the case of the repeal of section 199(9) of the Financial Services Act 1986, on 1st March 1990 and, in the case of the remaining repeals, on 1st April 1990.

(2) Where paragraph (1) above states that a repeal is subject to this paragraph, that repeal is to be subject to any relevant transitional or saving provisions made by any provision of this Order.

Transitional and saving provisions relating to Part I of the 1989 Act

6. In articles 6 to 9 of this Order, and Schedules 2 and 3 thereto, expressions have the same meaning as in the 1985 Act as amended by the 1989 Act and:

“ the old Part VII ” means the provisions of Part VII of the 1985 Act(e), together with any other provision of that Act necessary for their interpretation or operation, prior to any repeal, re-enactment or amendment of those provisions by Part I of the 1989 Act;

“ the new Part VII ” means the provisions of Part VII of the 1985 Act, together with any other provision of that Act necessary for the interpretation or operation of those provisions, subject to any repeal, re-enactment or amendment of those provisions by the provisions of Part I of the 1989 Act commenced by this Order and by the Companies Act 1989 (Commencement No. 2) Order 1990(f); and

“ relevant financial year ” means a financial year commencing on a date prior to 23rd December 1989.

7.—(1) The provisions of the new Part VII shall have effect subject to the transitional and saving provisions set out in Schedule 2 to this Order.

(2) In Schedule 2, Part I sets out general transitional and saving provisions and Part II sets out specific transitional and saving provisions with respect to a relevant financial year of a company.

8. Section 23 of, and Schedule 10 to, the 1989 Act shall have effect subject to the transitional and saving provisions set out in Schedule 3 to this Order.

9. The transitional and saving provisions set out in this Order relating to both the new and the old Part VII shall have effect (so far as applicable) in relation to any body corporate to which Part VII of the 1985 Act is applied (whether or not subject to modification) by any enactment (including any subordinate legislation within the meaning of

(a) 1964 c.40.

(b) 1985 c.65.

(c) 1986 c.45.

(d) 1986 c.60.

(e) Part VII of the Companies Act 1985 has been amended by the Insolvency Act 1985, the Insolvency Act 1986, the Financial Services Act 1986 and the Banking Act 1987 (c.22), as well as by the Companies (Modified Accounts) Amendment Regulations 1986 (S.I. 1986/1865).

(f) S.I. 1990/142; this Order commenced sections 1 and 15 of Part I of the 1989 Act to the extent necessary to insert section 251 into Part VII of the 1985 Act in place of the existing section of that number.

section 21(1) of the Interpretation Act 1978(a)) as they have effect in relation to a company, unless the context otherwise requires, and accordingly references therein to a company shall be construed as including such a body corporate.

Transitional and saving provisions relating to sections 115 and 118 to 124 of the 1989 Act

10. Sections 115 and 118 to 124 of the 1989 Act shall have effect subject to the transitional and saving provisions set out in Schedule 4 to this Order.

Saving provision relating to section 131 of the 1989 Act

11. The insertion of the new section 111A into the 1985 Act by section 131 of the 1989 Act shall not be construed as affecting any right, privilege, obligation or liability acquired, accrued or incurred prior to the commencement of section 131 by this Order.

Transitional provision relating to section 136 of the 1989 Act

12.—(1) This article applies where a body corporate has changed the situation of its registered office prior to the commencement of section 136 of the 1989 Act (which substitutes a new section 287 of the 1985 Act for the old section 287 thereof) but has not given notice of the change in the prescribed form to the registrar as required by sub-section (2) of the old section 287 of the 1985 Act.

(2) Where this article applies, sub-sections (2) and (3) of the old section 287 shall continue to have effect.

Transitional provision relating to section 137 of the 1989 Act

13. The new paragraph 5A inserted by section 137(2) of the 1989 Act into Part I of Schedule 7 to the 1985 Act shall not have effect for a directors' report of a company for a financial year commencing on a date prior to 23rd December 1989.

Saving for the Interpretation Act 1978

14. Nothing in articles 7 to 10 and 12 of, or Schedules 2 to 4 to, this Order is to be taken as prejudicing the application of sections 16 and 17 of the Interpretation Act 1978 (savings from, and effect of, repeals).

Amendment of the 1985 Act

15. The section 224 inserted by section 3 of the 1989 Act into Part VII of the 1985 Act shall be amended, with effect from 1st April 1990, as follows:

- (a) in sub-section (3)(a), the words " 1st April 1990 " shall be substituted for the words " the commencement of section 3 of the Companies Act 1989 "; and
- (b) in sub-section (3)(b), the words " 1st April 1990 " shall be substituted for the words " the commencement of that section ".

Provisions of earlier commencement order revoked

16. In article 7(d) of the Companies Act 1989 (Commencement No. 2) Order 1990 the reference to section 199(1) of the Financial Services Act 1986 is hereby revoked, with effect from 1st March 1990.

17. Article 8 of the Companies Act 1989 (Commencement No. 2) Order 1990 is hereby revoked with effect from 1st April 1990.

26th February 1990

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

(a) 1978 c.30.

**PROVISIONS OF PART I OF THE COMPANIES ACT 1989
TO BE BROUGHT INTO FORCE BY THIS ORDER**

<i>Provision of Part I</i>	<i>Purposes for which to be in force</i>
Section 1 (Introduction).	For the purposes of any section or part thereof brought into force by this Order.
Section 2 (Accounting records).	For all purposes.
Section 3 (A company's financial year and accounting reference periods).	For all purposes.
Section 4 (Individual company accounts).	For all purposes.
Section 5 (Group accounts).	For all purposes.
Section 6 (Additional disclosure required in notes to accounts).	For all purposes.
Section 7 (Approval and signing of accounts).	For all purposes except the insertion of section 233(5) into Part VII of the 1985 Act.
Section 8 (Directors' report).	For all purposes.
Section 9 (Auditors' report).	For all purposes.
Section 10 (Publication of accounts and reports).	For all purposes.
Section 11 (Laying and delivery of accounts and reports).	For all purposes except the insertion of section 242A into the 1985 Act.
Section 13 (Small and medium-sized companies and groups).	For all purposes.
Section 14 (Dormant companies).	For all purposes.
Section 16 (Private companies: election to dispense with laying of accounts and reports before general meeting).	For all purposes.
Section 17 (Unlimited companies: exemption from requirement to deliver accounts and reports).	For all purposes.
Section 18 (Banking and insurance companies and groups: special provisions).	For all purposes.
Section 19 (Accounting standards).	For all purposes.
Section 20 (Power to alter accounting requirements).	For all purposes.
Section 21 (Parent and subsidiary undertakings).	For all purposes.
Section 22 (Other interpretation provisions).	For all purposes.
Section 23 and Schedule 10 (Consequential amendments).	For all purposes except in so far as paragraph 24(2) of Schedule 10 omits the entries relating to section 245(1) and (2), in so far as paragraph 24(3) inserts an entry for section 233(5) and in so far as paragraph 35(2)(b) amends section 3(3) of the Company Directors Disqualification Act 1986(a).

(a) 1986 c.46.

PART I

GENERAL TRANSITIONAL AND SAVING PROVISIONS

General Rules

1.—(1) The provisions of this paragraph have effect, in addition to the provisions of the Interpretation Act 1978, for securing the continuity of the law so far as Part I of the 1989 Act re-enacts (with or without modification) provisions of the old Part VII in the new Part VII.

(2) References (express or implied) in a provision of the new Part VII or in any other enactment (including in any subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978) to any provision of the new Part VII shall, so far as the context permits, be construed as including, in connection with a relevant financial year of a company or otherwise in connection with events, circumstances or purposes occurring before the coming into force of the provisions of the 1989 Act, a reference to the corresponding provision of the old Part VII.

(3) Where an offence has been committed for the continuance of which a penalty was provided for under any provision of the old Part VII, proceedings may be taken under the corresponding provision of the new Part VII in respect of the continuance of the offence on and after 1st April 1990 in the like manner as if the offence had been committed under the corresponding provision.

(4) Where any period of time specified in any provision of the old Part VII is current immediately prior to 1st April 1990, and there is a corresponding provision of the new Part VII, the new Part VII shall have effect as if that corresponding provision had been in force when that period began to run.

(5) The provisions of this paragraph have effect subject to any specific transitional or saving provisions made by this Order.

Application of section 245 of the old Part VII

2. Section 245 of the old Part VII shall have effect for any financial year of a company other than a relevant financial year as if the references in sub-section (2) thereof to sections 229(5) to (7) and section 230 were references to sections 227, 231 and 232 of the new Part VII and to paragraph 3 of this Schedule.

Insurance groups

3.—(1) Notwithstanding any provision of the new Part VII, the directors of the parent company of an insurance group (within the meaning of section 255A(4) thereof) which is required by section 227 thereof to prepare group accounts may prepare those accounts for any financial year ending prior to 1st January 1994 in other than consolidated form, if:

- (a) an undertaking within the group is authorised to carry on both long term and general business (those expressions having the meaning ascribed to them by section 1 of the Insurance Companies Act 1982(a)) or the group comprises one or more undertakings authorised to carry on long term business and one or more undertakings authorised to carry on general business; and
- (b) that form would have been permitted by section 229(6) of the old Part VII.

(2) Where the parent company of an insurance group takes advantage of sub-paragraph (1), the provisions of the new Part VII shall apply with respect to such alternate-form group accounts (and in particular their content) with any necessary modifications as a consequence of their being other than in consolidated form.

(3) The provisions of this paragraph take effect subject to Part II of this Schedule.

Section 224 (Accounting reference periods and accounting reference date)

4. A company incorporated prior to 1st October 1989 shall not be entitled to serve a notice under section 224(2) of the new Part VII.

Section 231 (Disclosure required in notes to accounts: related undertakings)

5. Where a company has, prior to 1st April 1990, obtained the agreement of the Secretary of State under paragraphs 3, 10 or 21 of Schedule 5 of the old Part VII to the non-disclosure in the company's accounts, for certain accounting reference periods, of the information referred to in those paragraphs, it need not comply with the requirements of section 231(4) of the new Part VII in relation to its annual accounts for those periods.

(a) 1982 c.50.

Schedule 4: Paragraph 34 (Revaluation reserve)

6. The amendments made by paragraph 6 of Schedule 1 to the 1989 Act to paragraph 34 of Schedule 4 to the 1985 Act shall not be construed as requiring the reinstatement of any amount to the revaluation reserve with respect to any reduction of that reserve which took place in a financial year of a company prior to the first financial year for which the company is required to prepare accounts under the new Part VII.

Schedule 4A: Paragraphs 7 to 12 (Acquisition and merger accounting)

7.—(1) Paragraphs 7 to 12 of Schedule 4A of new Part VII shall not be construed as requiring:

- (a) an old acquisition accounted for by way of the merger method of accounting to be accounted for by the acquisition method; or
- (b) the re-calculation of any set-off made with respect to an old acquisition or as requiring any re-assessment of the values at which any assets or liabilities acquired as a result of such an acquisition are included in the group accounts.

(2) For the purposes of sub-paragraph (1), an “old acquisition” is an acquisition of a subsidiary undertaking which has been accounted for, in group accounts which a company was required to prepare for a financial year under old Part VII, by way of the merger method or acquisition method of accounting as recognised by generally accepted accounting principles or practice at the time.

8.—(1) This paragraph has effect with respect to the application of paragraph 9 of Schedule 4A of the new Part VII to an existing subsidiary undertaking which is required to be included by way of full consolidation in a company's group accounts under new Part VII, but which has not previously been so included in any group accounts prepared by the company under old Part VII.

(2) Where, for the purposes of paragraph 9(2) of Schedule 4A, the information needed to calculate the fair values of the identifiable assets and liabilities of the existing subsidiary undertaking is not available or cannot be obtained without unreasonable expense or delay, the calculation may be based upon the earliest recorded values of those assets and liabilities available after the date of the acquisition, provided that the notes to the accounts disclose the date of the valuations used.

(3) Where the information needed to calculate the set-off required by paragraph 9(4) of Schedule 4A is not available or cannot be obtained without unreasonable expense or delay, the calculation may be based upon the earliest recorded information available after the date of the acquisition, provided that the notes to the accounts disclose the date of the information used.

(4) For the purposes of this paragraph, an existing subsidiary undertaking is one acquired by a company during a financial year prior to the first financial year for which it is required to prepare accounts under the new Part VII.

Schedule 4A: Paragraph 14 (Disclosure of goodwill written off)

9. In the case of acquisitions made prior to 23rd December 1989, no amount need be included in any figure required to be disclosed under paragraph 14 of Schedule 4A of the new Part VII, or (if all relevant acquisitions were made prior to that date) no figure need be disclosed, if the information necessary to calculate the amount or figure with material accuracy is unavailable or cannot be obtained without unreasonable expense and delay, provided it is disclosed in the notes to the accounts that an amount has not been included or the figure has not been disclosed on these grounds.

Schedule 4A: Paragraph 19 (Joint ventures)

10.—(1) Paragraph 19(2) of Schedule 4A of the new Part VII shall not be construed as requiring the re-calculation of any set-off made with respect to an old joint venture or as requiring any re-assessment of the values at which any assets or liabilities of the old joint venture are included in the group accounts.

(2) For the purposes of sub-paragraph (1), an “old joint venture” is a joint venture, within the meaning of paragraph 19(1) of Schedule 4A, which has been accounted for by the method of proportional consolidation in group accounts which a company was required to prepare for a financial year under the old Part VII.

Schedule 4A: Paragraphs 18 and 22 (Subsidiaries excluded from consolidation and associated undertakings)

11.—(1) This paragraph has effect with respect to the application of paragraphs 18 and 22 of Schedule 4A of the new Part VII to an existing undertaking which is required to be included by way of the equity method in a company's group accounts under new Part VII, but which has not previously been so included (or included by way of full consolidation) in any group accounts prepared by the company under old Part VII.

(2) Where the information needed to make any calculation required by the equity method in connection with an existing undertaking is not available or cannot be obtained without unreasonable expense or delay, the calculation may be based upon the earliest recorded information available after the date of the acquisition of the appropriate interest in the undertaking concerned, provided that the notes to the accounts disclose the date of the information used.

(3) For the purposes of this paragraph, an "existing undertaking" is an associated or subsidiary undertaking the appropriate interest in which was acquired during a financial year prior to the first financial year for which a company is required to prepare accounts under the new Part VII.

Saving provision for section 69 of the Local Government and Housing Act 1989

12. The repeal of paragraph 77 of Schedule 4 of the old Part VII shall be treated as not having been made to the extent necessary to give full force and effect to section 69(4) of the Local Government and Housing Act 1989(a).

PART II

TRANSITIONAL AND SAVING PROVISIONS WITH RESPECT TO ACCOUNTS AND REPORTS FOR RELEVANT FINANCIAL YEARS

General Rules

13.—(1) Subject to the exceptions set out in paragraph 14 below:

- (a) the provisions of the old Part VII shall continue to have effect with respect to a relevant financial year of a company, and in particular a company's accounts (within the meaning of section 239 of the old Part VII) for a relevant financial year; and
- (b) the provisions of the new Part VII shall not have effect with respect to such a financial year or, in particular, such accounts.

Provisions of new Part VII to be applicable with respect to any financial year

14.—(1) In so far as paragraph 13 would otherwise to any extent disapply sections 221, 222, 256 or 257 of the new Part VII or continue in force sections 221 to 223 and 256 of the old Part VII, it shall not do so.

(2) Subject to the provisions of this Part of this Schedule, the following sections of the new Part VII, together with any other provision of the 1985 Act (as amended by the 1989 Act) to the extent necessary for their interpretation or operation, shall, notwithstanding paragraph 13, have effect, as from 1st April 1990, with respect to any financial year of a company:

- (a) sections 223 to 225 (which shall have effect, in so far as they apply with respect to a relevant financial year, in place of sections 224 to 226 of the old Part VII);
- (b) section 239 (which shall have effect, in so far as it applies with respect to a relevant financial year, in place of section 246 of the old Part VII);
- (c) section 240 (which shall have effect, in so far as it applies with respect to a relevant financial year, in place of sections 254 and 255 of the old Part VII);
- (d) section 251; and
- (e) sections 252 and 253.

Sections 223 and 225

15. Sections 223 and 225 shall have effect with respect to a relevant financial year as if the references:

- (a) in section 223(5) to "parent company" and "subsidiary undertakings" were references to "holding company" and "subsidiaries" respectively; and
- (b) in section 225(2) and (4) to "parent undertaking" and "subsidiary undertaking" were references to "holding company" and "subsidiary" respectively,

within the meaning of section 736 of the 1985 Act as unamended by the 1989 Act.

Section 239

16. Section 239 shall have effect with respect to a relevant financial year as if the reference in sub-section (1) thereof to a copy of the company's last annual accounts and directors' report and a copy of the auditors' report on those accounts was a reference to the documents referred to in section 239 of the old Part VII and as if the reference to section 238 in sub-section (2) thereof was a reference to section 240 of the old Part VII.

(a) 1989 c.42.

Section 240

17.—(1) Section 240 shall apply with respect to accounts for a relevant financial year as if:

- (a) the references in sub-sections (1) and (3) thereof to section 235 were to sections 236 and (where appropriate) 262 of the old Part VII;
- (b) the reference in sub-section (3)(d) thereof to section 237(3) was a reference to section 237(4) of the old Part VII;
- (c) the reference in sub-section (5) thereof to section 242 was a reference to section 241(3) of the old Part VII; and
- (d) as if the word “subsidiaries” (within the meaning of section 736 of the 1985 Act as unamended by the 1989 Act) was substituted for the words “subsidiary undertakings” in sub-section (5)(b).

(2) Accounts delivered to the registrar in modified form in reliance on sections 247 to 251 of the old Part VII shall be regarded as statutory accounts for the purposes of section 240, and references in that section to the auditors’ report under section 235 shall be read, in relation to accounts so delivered, as references to the special report under paragraph 10 of Schedule 8 to old Part VII.

Section 251

18. Section 251 shall apply with respect to a relevant financial year as if:

- (a) the references in sub-sections (1) and (2) thereof to section 238(1) were references to section 240(1) of the old Part VII;
- (b) the references therein to the company’s annual accounts were references to the documents referred to in section 239(a) and (d) of the old Part VII; and
- (c) the reference in sub-section 4(d) thereof to section 237(3) was a reference to section 237(4) of the old Part VII.

Sections 252 and 253

19. Sections 252 and 253 shall apply with respect to a relevant financial year as if:

- (a) the references therein to section 238(1) were references to section 240(1) of the old Part VII;
- (b) the reference in section 252(3)(a) to section 235(1) was a reference to section 236(1) of the old Part VII;
- (c) the reference in section 252(4) to section 241 was a reference to section 241(1) of the old Part VII; and
- (d) the reference in section 253(1) to section 238(5) was a reference to section 240(5) of the old Part VII.

SCHEDULE 3

Article 8

**TRANSITIONAL AND SAVING PROVISIONS RELATING TO
SCHEDULE 10 TO THE 1989 ACT**

1.—(1) The consequential amendments made by the paragraphs of Schedule 10 to which this paragraph applies shall, so far as they would otherwise have effect with respect to a statement of accounts of a body corporate or any report of its directors or auditors for or otherwise concerning a financial year commencing prior to 23rd December 1989, or part of such a year, be treated as not having been made.

(2) This paragraph applies to paragraphs 1, 5, 6, 8, 9, 11, 12, 14, 15, 16 (insofar as it omits the definition of “authorised institution”), 20, 21, 26 to 33 and 39 of Schedule 10.

(3) This paragraph is without prejudice to the operation of paragraph 1(2) of Schedule 2 to this Order in relation to any amendment of an enactment effected by a provision of Schedule 10.

2. Paragraph 24 of Schedule 10 shall have effect subject to the transitional and saving provisions set out in Part II of Schedule 2 to this Order.

3.—(1) Section 700 of the 1985 Act, inserted by paragraph 13 of Schedule 10, shall not apply with respect to a financial year of an oversea company commencing on a date prior to 23rd December 1989 but the directors of such a company shall prepare such accounts (including such notes to the

accounts) for such a financial year in such form, and containing such information, as would have been required of them under the provisions of section 700(1) of the unamended 1985 Act, as modified by the provisions of the Oversea Companies (Accounts) (Modifications and Exemptions) Order 1982(a) and subject to the exemptions made thereby.

(2) Sections 702 and 703 of the amended 1985 Act shall apply to accounts prepared under subparagraph (1) above as they do to accounts prepared under section 700 of the amended 1985 Act.

(3) For the purposes of this paragraph, "the unamended 1985 Act" means the provisions of the 1985 Act prior to their amendment by the provisions of the 1989 Act and "the amended 1985 Act" means the provisions of the 1985 Act after being so amended.

SCHEDULE 4

Article 10

TRANSITIONAL PROVISIONS RELATING TO SECTIONS 115 AND 118 TO 124 OF THE 1989 ACT

Interpretation

1. For the purposes of this Schedule, "the unamended 1985 Act" means the provisions of the 1985 Act prior to their amendment by the provisions of the 1989 Act, "the amended 1985 Act" means the provisions of the 1985 Act subject to any amendments made by that Act, "relevant financial year" means a financial year of a company commencing prior to 23rd December 1989, and other expressions have the same meaning as in the amended 1985 Act.

ELECTIVE RESOLUTIONS

Transitional provisions relating to annual returns where an election to dispense with an annual general meeting is in force

2.—(1) This paragraph applies where an election is in force, under the provisions of section 366A of the amended 1985 Act(b), to dispense with the holding of annual general meetings, at a time when sections 363 to 365 of the amended 1985 Act(c) are not in force.

(2) Where this paragraph applies:

- (a) section 365 of the unamended 1985 Act shall apply as if sub-section (1) thereof required the company's annual return for a year to be completed by a date not later than 42 days after the latest date by which the company would have been required to hold an annual general meeting in the absence of the resolution under section 366A of the amended 1985 Act; and
- (b) paragraph 5(a) of Schedule 15 to the 1985 Act shall apply as if the words "on the fourteenth day after the company's annual general meeting for the year" read "on a date not more than 28 days prior to the date on which the company's annual return is completed".

AUDITORS

General transitional and saving provisions relating to sections 118 to 124

3.—(1) The provisions of this paragraph have effect, in addition to the provisions of the Interpretation Act 1978, for securing the continuity of the law so far as sections 118 to 124 of the 1989 Act re-enact (with or without modification) provisions of sections 384 to 394 of the unamended 1985 Act.

(2) References (express or implied) in any enactment (including in any subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978) to any provision of new sections 384 to 394A inserted by sections 118 to 123 of the 1989 Act shall, so far as the context permits, be construed as including a reference to the corresponding provision of sections 384 to 394 of the unamended 1985 Act.

(3) Where an offence has been committed for the continuance of which a penalty was provided for under any provision of sections 384 to 394 of the unamended 1985 Act, proceedings may be taken under the corresponding provision of new sections 384 to 394A inserted by sections 118 to 123 of the 1989 Act in respect of the continuance of the offence on and after 1st April 1990 in the like manner as if the offence had been committed under the corresponding provision.

(4) Where any period of time specified in any provision of sections 384 to 394 of the unamended 1985 Act is current immediately prior to 1st April 1990, and there is a corresponding provision in new sections 384 to 394A inserted by sections 118 to 123 of the 1989 Act, those new sections shall have effect as if that corresponding provision had been in force when that period began to run.

(a) S.I. 1982/676, which has effect as if made under section 700(4) of the unamended 1985 Act.

(b) Section 366A is inserted by section 115(2) of the 1989 Act.

(c) Sections 363 to 365 of the amended 1985 Act are inserted into the 1985 Act by section 139(1) of the 1989 Act.

(5) The provisions of this paragraph have effect subject to any specific transitional or saving provisions made by this Order.

Transitional provisions having effect in relation to a relevant financial year of a company

4. References in sections 385A, 388A(4), 393 and 394 (inserted by sections 119(1), 122(1) and 123(1) of the 1989 Act) to section 238 shall be construed, with respect to a relevant financial year of a company, as references to section 240 of the unamended 1985 Act.

5. New section 385A, inserted by section 119(1) of the 1989 Act, shall have effect with respect to a relevant financial year of a company as if the references therein to the company's annual accounts and first annual accounts were to the documents referred to in section 239(a) and (d) of the unamended 1985 Act.

6. New section 386(2), inserted by section 119(1) of the 1989 Act, shall have effect with respect to a relevant financial year of a company as if the reference to section 250 was a reference to section 252 of the unamended 1985 Act.

7. New section 388A(1) and (3), inserted by section 119(1) of the 1989 Act, shall not apply with respect to a relevant financial year of a company and:

- (a) the reference in section 384 to that section shall be construed, with respect to such a year, as a reference to section 252 of the unamended 1985 Act; and
- (b) sections 388A(4), and 388A(2) and (5) so far as they relate to section 388A(4), shall apply with respect to a loss of an exemption under section 252 of the unamended 1985 Act.

8. New section 389A, inserted by section 120(1) of the 1989 Act, shall have effect with respect to a relevant financial year of a company as if the references therein to a "parent company" or "subsidiary undertaking" included references to a "holding company" or a "subsidiary" respectively, within the meaning of section 736 of the 1985 Act as unamended by the 1989 Act.

9. New section 390A(3), inserted by section 121 of the 1989 Act, shall not apply with respect to a relevant financial year of a company.

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 3 of this Order brings into force the provisions of Part I of the 1989 Act (Company Accounts) with the exception of:

- Section 15 (Public listed companies: provision of summary financial statement) which is already in force; and
- sections 7 (in so far as it inserts a new section 233(5) into the Companies Act 1985 (Offence where annual accounts approved which are defective)), 11 (in so far as it inserts a new section 242A into the Companies Act 1985 (Civil penalty for failure to deliver accounts)) and 12 (Remedies for failure to comply with accounting requirements), which will be brought into force by a later order.

The provisions of Part I commenced by this Order come into force on 1st April 1990 except for one consequential amendment to the Companies Act 1985 which comes into force on 1st August 1990. Articles 6 to 9 of, and Schedules 2 and 3 to, the Order set out a number of transitional and saving provisions which relate to the commencement of Part I. Most importantly, with certain exceptions, the existing rules relating to the accounts and reports of companies will continue to have effect for financial years of a company commencing prior to 23rd December 1989 instead of the amended provisions inserted by the Companies Act 1989. Saving provisions are made to ensure the continuity of the law between the old and the new Part VII of the Companies Act 1985.

Article 4 of this Order brings into force, in Part V (Other amendments of company law), sections 113 to 117 (De-regulation of private companies), 118 to 124 (Appointment and removal of auditors and related matters), 131 (Member's rights to damages, &c), 132 (Financial assistance for purposes of employees' share scheme), 136 (A company's registered office), 137 (Effecting of insurance for officers and auditors of company) and certain minor amendments made by section 145 and Schedule 19. These minor amendments are those made by paragraphs 15 and 16 (Exemptions from limit of 20 on members of partnership), 17 (Meaning of "officer who is in default") and 18 (Offences committed by partnerships and other unincorporated bodies) of Schedule 19. All these provisions come into force on 1st April 1990. Articles 11 and 12 to 14 of the Order set out certain transitional or saving provisions relating to sections 115, 118 to 124, 131, 136 and 137 of the 1989 Act.

Article 5 of this Order brings into force section 212 and Schedule 24, which set out the repeals of enactments made by the 1989 Act, to the extent (with certain exceptions) that they relate to the other provisions of the Act brought into force by this Order on the date those provisions come into force, 1st April 1990.

Article 15 of this Order inserts a reference to the actual date of commencement into a provision of the new Part VII of the Companies Act 1985.

Article 16 of this Order revokes a reference in article 7(d) of the Companies Act 1989 (Commencement No. 2) Order 1990 which purports (due to a clerical error) to commence a reference to a repeal in the repeals Schedule to the 1989 Act which does not in fact exist. The correct reference to the repeal is commenced by article 5(e) of this Order with effect from 1st March 1990, though the repeal is already made by virtue of section 76(8) of the 1989 Act commenced by article 4 of the Companies Act 1989 (Commencement No. 2) Order 1990.

Article 17 revokes, with effect from 1st April 1990, the transitional provision relating to section 15 of the 1989 Act in article 8 of the Companies Act 1989 (Commencement No. 2) Order 1990 (which has been superseded by the transitional provisions in this Order).

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
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
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

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
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), in so far as it provides for the insertion in s.180(1) of the Financial Services Act 1986 of a new paragraph (oo)	25.1.1990	S.I. 1990/98
S.75(3) except in so far 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
S.75(4) in so far as it provides a definition of "public servant" for the purposes of the new s.180(1)(oo) of the Financial Services Act 1986	25.1.1990	S.I. 1990/98
S.75(4) except in so far 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
S.145 but only in so far 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

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
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 in so far 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 in so far as it inserts section 47A into the Financial Services Act 1986	15.3.1990	S.I. 1990/354
S.193 in so far as is necessary in order to enable regulations to be made under section 62A of, and paragraph 22A of Schedule 11 to, the Financial Services Act 1986	15.3.1990	S.I. 1990/354
Sections 194 to 200	15.3.1990	S.I. 1990/354
Sections 203 to 205	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	15.3.1990	S.I. 1990/354
S.206(2) to (4)	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 in so far 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
Ss.213 to 215 in so far 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
Schedules 11 and 12	1.3.1990	S.I. 1990/142
Schedule 14	1.3.1990	S.I. 1990/142
Schedule 19, paragraphs 1, 8, 9, 12, 19 and 21	1.3.1990	S.I. 1990/142
Schedule 20, paragraphs 1, 13, 17, 21 and 26	1.4.1990	S.I. 1990/142
Schedule 24 in so far 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 in so far 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 in so far 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 in so far 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