

2007 No. 3495 (C. 150)

COMPANIES

The Companies Act 2006
(Commencement No. 5,
Transitional Provisions and
Savings) Order 2007

Made - - - - - 17th December 2007

Laid before Parliament 17th December 2007

Coming into force in accordance with article 2



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The Secretary of State makes the following Order in exercise of the powers conferred by sections 1292, 1296 and 1300(2) of the Companies Act 2006(a).

Citation and interpretation

1.—(1) This Order may be cited as the Companies Act 2006 (Commencement No. 5, Transitional Provisions and Savings) Order 2007.

(2) In this Order—

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

“the 1986 Order” means the Companies (Northern Ireland) Order 1986(c).

Coming into force

2.—(1) The provisions of this Order come into force as follows.

(2) Articles 3, 7 and 10(1), Part 1 of Schedule 1, Schedule 2 and Part 1 of Schedule 4 come into force on 6th April 2008.

(3) Article 4 and Part 2 of Schedule 4 come into force on 29th June 2008.

(4) Articles 5 and 10(2), Part 2 of Schedule 1, Schedule 3 and Part 3 of Schedule 4 come into force on 1st October 2008.

(5) Articles 6, 8, 9, 10(3) and 12 come into force—

(a) on 6th April 2008 so far as relating to provisions coming into force on that date;

(b) on 29th June 2008 so far as relating to provisions coming into force on that date;

(c) on 1st October 2008 so far as relating to provisions coming into force on that date.

(6) Article 11 and Schedule 5 come into force—

(a) on 31st December 2007 so far as relating to the amendment made by paragraph 2(6) of that Schedule;

(b) on 14th January 2008 so far as relating to the other amendments made by that Schedule.

(a) 2006 c.46.
(b) 1985 c.6.
(c) S.I. 1986/1032 (N.I. 6).

Provisions of the Companies Act 2006 coming into force on 6th April 2008

3.—(1) The following provisions of the Companies Act 2006 come into force on 6th April 2008—

- (a) section 44 (execution of documents);
- (b) sections 121 and 128 (register of members: removal of entries and time limit for claims);
- (c) sections 270 to 274 and 280 (company secretaries);
- (d) sections 380 to 416, 418 to 462 and 464 to 474 (accounts and reports) **(a)**;
- (e) sections 475 to 484 and 489 to 539 (audit) **(b)**;
- (f) section 544 (transferability of shares);
- (g) sections 738 to 754 (debentures);
- (h) sections 755 to 767 (private and public companies);
- (i) sections 768 to 790 (certification and transfer of securities);
- (j) sections 811(4), 812 and 814 (exercise of right to inspect register of interests disclosed);
- (k) sections 829 to 853 (distributions);
- (l) sections 895 to 901 (arrangements and reconstructions);
- (m) sections 902 to 941 (mergers and divisions of public companies);
- (n) section 1126 (consents required for certain prosecutions);
- (o) sections 1161 and 1162 and Schedule 7 (meaning of “undertaking” and related expressions);
- (p) section 1164 (meaning of “banking company” and “banking group”);
- (q) section 1165 (meaning of “insurance company” and related expressions);
- (r) section 1169 (dormant companies);
- (s) section 1172 (references to requirements of this Act);
- (t) in section 1173 (minor definitions: general), the definitions of “credit institution” and “working day”;
- (u) sections 1209 to 1241 and 1245 to 1264 and Schedules 10, 11, 13 and 14 (statutory auditors);
- (v) section 1282 (payment of expenses of winding up).

(2) In section 1117 of the Companies Act 2006 (registrar’s rules)—

- (a) subsections (1) and (2) come into force on 6th April 2008 so far as may be necessary for the purpose of enabling rules to be made under that section before the date on which the section is brought generally into force, and
- (b) subsection (3) (duty to publicise and make available copies of rules made under that section) has effect accordingly.

(3) The following provisions of the Companies Act 2006 come into force on 6th April 2008 so far as necessary for the purposes of the provisions mentioned in paragraphs (1)(a) to (t) and paragraph (2)—

- (a) section 17 (a company’s constitution);
- (b) section 540(1) and (4) (shares);
- (c) section 545 (companies having a share capital);
- (d) section 546 (issued and allotted share capital);
- (e) section 548 (equity share capital);
- (f) section 629 (classes of shares);

(a) Sections 384, 467 and 474 were amended by S.I. 2007/2932, regulation 3.

(b) Sections 478, 481 and 539 were amended by S.I. 2007/2932, regulation 3.

- (g) sections 1121 to 1123, 1125 and 1127 to 1133 (provisions relating to offences);
- (h) sections 1139 and 1140 (service of documents);
- (i) section 1168 (hard copy and electronic form and related expressions);
- (j) in section 1173 (minor definitions: general), the definitions of “body corporate” (and “corporation”), “firm”, “the Gazette”, “parent company” and “regulated market”.

(4) Sections 1159 and 1160 of, and Schedule 6 to, the Companies Act 2006 (meaning of “subsidiary” etc) come into force on 6th April 2008 so far as necessary for the purposes of the provisions mentioned in paragraph (1)(u).

(5) Section 1284 of the Companies Act 2006 (extension of Companies Acts to Northern Ireland) comes into force on 6th April 2008 so far as necessary for the purposes of the provisions mentioned in paragraphs (1)(a) to (t), (2) and (3).

Provisions of the Companies Act 2006 coming into force on 29th June 2008

4. Sections 1242 to 1244 of, and Schedule 12 to, the Companies Act 2006 (duties of third country auditors: information to be supplied by third country auditors) come into force on 29th June 2008.

Provisions of the Companies Act 2006 coming into force on 1st October 2008

5.—(1) The following provisions of the Companies Act 2006 come into force on 1st October 2008—

- (a) sections 69 to 74 (objections to company names);
- (b) sections 82 to 85 (trading disclosures);
- (c) sections 155 to 159 (appointment of directors);
- (d) sections 175 to 177 (general duties of directors);
- (e) sections 182 to 187 (duty of directors to declare interest in existing transaction or arrangement);
- (f) section 1157 (power of court to grant relief in certain cases);
- (g) sections 1277 to 1280 (information as to exercise of voting rights by institutional investors).

(2) Section 1295 of, and Schedule 16 to, the Companies Act 2006 (repeals) come into force on 1st October 2008 so far as relating to the repeal of sections 151 to 153 and 155 to 158 of the 1985 Act and Articles 161 to 163 and 165 to 168 of the 1986 Order (financial assistance for acquisition of shares) as they apply to the giving of financial assistance by a private company for the purposes of the acquisition of shares in itself or another private company.

(3) The following provisions of the Companies Act 2006 come into force on 1st October 2008 so far as necessary for the purposes of the provisions mentioned in paragraph (1)(a) to (f)—

- (a) sections 1121 to 1123, 1125 and 1127 to 1133 (provisions relating to offences);
- (b) section 1168 (hard copy and electronic form and related expressions);
- (c) in section 1173 (minor definitions: general), the definitions of “body corporate” (and “corporation”), “firm” and “officer”.

(4) Section 1284 of the Companies Act 2006 (extension of Companies Acts to Northern Ireland) comes into force on 1st October 2008 so far as necessary for the purposes of the provisions mentioned in paragraphs (1) to (3).

Transitional adaptations of provisions brought into force

6. The provisions brought into force by articles 3 and 5 have effect subject to any transitional adaptations specified in Schedule 1 to this Order.

Interpretation of company law provisions brought into force

7.—(1) Where an expression in a company law provision brought into force by this Order (or in an adaptation made by this Order of such a provision)—

- (a) is defined in the 1985 Act or the 1986 Order (“the old definition”); and
- (b) is defined in the Companies Act 2006 by another provision that is not yet in force for the purposes of the provision brought into force (“the new definition”),

the expression has, for the purposes of the provision brought into force (or the adaptation), the meaning given by the old definition until the new definition is brought into force for the purposes of that provision.

(2) In paragraph (1) “company law provision” has the meaning given by section 2(2) of the Companies Act 2006.

Repeals

8. Sections 1284(2) and 1295 of, and Schedule 16 to, the Companies Act 2006 (repeals) come into force—

- (a) on 6th April 2008 so far as relating to the repeal of the provisions specified in Schedule 2 to this Order;
- (b) on 1st October 2008 so far as relating to the repeal of the provisions specified in Schedule 3 to this Order.

Transitional provisions and savings

9.—(1) Schedule 4 to this Order contains transitional provisions and savings relating to the provisions (and repeals) brought into force by this Order.

(2) Any saving in that Schedule for the effect of a provision of the 1985 Act or 1986 Order that creates an offence extends to the entry relating to that provision in Schedule 24 to that Act or Schedule 23 to that Order (punishment of offences).

(3) Where any provision of that Schedule authorises or requires the use of a form prescribed under the 1985 Act or 1986 Order, the power to prescribe the form continues to be exercisable (so that the prescribed form may be amended or replaced) so long as the use of the form continues to be authorised or required.

(4) Until section 1068(1) comes into force, the provisions of section 707B of 1985 Act or Article 656B of the 1986 Order (delivery using electronic communications) apply in relation to documents required or authorised to be delivered to the registrar under the provisions of the Companies Act 2006 brought into force by this Order.

Revocation of spent transitional adaptations

10.—(1) The following provisions (which make transitional adaptations that are no longer needed as a result of provisions brought into force by this Order on 6th April 2008) are revoked with effect from that date—

- (a) in Schedule 1 to the Companies Act 2006 (Commencement No. 1, Transitional Provisions and Savings) Order 2006(a), paragraphs 3, 5(2)(b), 5(3)(a)(ix), 5(3)(b), 10, 11 and 12(3);
- (b) in Schedule 1 to the Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007(b), paragraphs 3 to 5, 10, 13(2)(a) and 15 to 18.

(a) S.I. 2006/3428 (C. 132).
(b) S.I. 2007/2194 (C. 84).

(2) The following provisions (which make transitional adaptations that are no longer needed as a result of provisions brought into force by this Order on 1st October 2008) are revoked with effect from that date—

- (a) in Schedule 1 to the Companies Act 2006 (Commencement No. 1, Transitional Provisions and Savings) Order 2006, paragraph 2;
- (b) in Schedule 1 to the Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007, paragraphs 6 to 9, 11 and 12;
- (c) paragraph 11 of Schedule 1 to this Order.

(3) The revocation by this article of a spent transitional adaptation is subject to the same transitional provisions and savings as apply, in accordance with Schedule 4 to this Order, in relation to the repeal of the provisions of the 1985 Act or 1986 Order referred to in the adaptation.

Amendments of earlier Orders

11. Schedule 5 to this Order contains amendments of earlier commencement Orders.

Savings

12.—(1) Nothing in this Order affects any provision of the 1985 Act or the 1986 Order as applied by the Limited Liability Partnerships Regulations 2001^(a) or the Limited Liability Partnerships Regulations (Northern Ireland) 2004^(b) to limited liability partnerships.

(2) The amendments and repeals made by this Order do not affect the operation of section 1297 of the Companies Act 2006 (continuity of the law).

17th December 2007

Stephen Timms
Minister for Competitiveness,
Department for Business, Enterprise and Regulatory Reform

^(a) S.I. 2001/1090.
^(b) S.R. (NI) 2004 No. 307.

TRANSITIONAL ADAPTATIONS OF PROVISIONS BROUGHT INTO FORCE

PART 1

PROVISIONS COMING INTO FORCE ON 6TH APRIL 2008

Transactions with directors requiring approval of members (s.205)

1.—(1) Section 205 (exception for expenditure on defending proceedings etc) has effect with the following adaptation.

(2) In subsection (5) for the words from “section 661(3)” to “innocent nominee)” substitute “section 144(3) or (4) of the Companies Act 1985 or Article 154(3) or (4) of the Companies (Northern Ireland) Order 1986 (acquisition of shares by innocent nominee)”.

Directors’ liabilities: qualifying third party indemnity provision (s.234)

2.—(1) Section 234 (qualifying third party indemnity provision) has effect with the following adaptation.

(2) In subsection (6) for the words from “section 661(3)” to “innocent nominee)” substitute “section 144(3) or (4) of the Companies Act 1985 or Article 154(3) or (4) of the Companies (Northern Ireland) Order 1986 (acquisition of shares by innocent nominee)”.

Company secretaries (ss.270 to 274)

3.—(1) Section 270(3) (private company without secretary: persons authorised to act) has effect with the following adaptation.

(2) Omit sub-paragraph (b)(ii).

4.—(1) Section 272 (direction requiring public company to appoint secretary) has effect with the following adaptations.

(2) In subsections (4)(b) and (5) for “section 276” substitute “section 288(2) of the Companies Act 1985 or Article 296(2) of the Companies (Northern Ireland) Order 1986”.

5.—(1) Section 274 (discharge of functions where office vacant or secretary unable to act) has effect with the following adaptation.

(2) In paragraph (b) for “any person” substitute “any officer of the company”.

Authentication of accounts and reports filed with registrar (ss.444 to 447 and 449)

6.—(1) Section 444 (filing obligations of companies subject to the small companies regime) has effect with the following adaptations.

(2) For subsection (6) substitute—

“(6) The copy of the balance sheet delivered to the registrar under this section must—

(a) state the name of the person who signed it on behalf of the board under section 414, and

(b) be signed on behalf of the board by a director of the company.

(6A) The copy of the directors’ report delivered to the registrar under this section must—

- (a) state the name of the person who signed it on behalf of the board under section 419, and
- (b) be signed on behalf of the board by a director or the secretary of the company.”.

(3) For subsection (7) substitute—

“(7) The copy of the auditor’s report delivered to the registrar under this section must—

- (a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, and
- (b) be signed by the auditor or (where the auditor is a firm) in the name of the firm by a person authorised to sign on its behalf,

or, if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified to the Secretary of State in accordance with that section.”.

7.—(1) Section 445 (filing obligations of medium-sized companies) has effect with the following adaptations.

(2) For subsection (5) substitute—

“(5) The copy of the balance sheet delivered to the registrar under this section must—

- (a) state the name of the person who signed it on behalf of the board under section 414, and
- (b) be signed on behalf of the board by a director of the company.

(5A) The copy of the directors’ report delivered to the registrar under this section must—

- (a) state the name of the person who signed it on behalf of the board under section 419, and
- (b) be signed on behalf of the board by a director or the secretary of the company.”.

(3) For subsection (6) substitute—

“(6) The copy of the auditor’s report delivered to the registrar under this section must—

- (a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, and
- (b) be signed by the auditor or (where the auditor is a firm) in the name of the firm by a person authorised to sign on its behalf,

or, if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified to the Secretary of State in accordance with that section.”.

8.—(1) Section 446 (filing obligations of unquoted companies) has effect with the following adaptations.

(2) For subsection (3) substitute—

“(3) The copy of the balance sheet delivered to the registrar under this section must—

- (a) state the name of the person who signed it on behalf of the board under section 414, and
- (b) be signed on behalf of the board by a director of the company.

(3A) The copy of the directors’ report delivered to the registrar under this section must—

- (a) state the name of the person who signed it on behalf of the board under section 419, and
- (b) be signed on behalf of the board by a director or the secretary of the company.”.

(3) For subsection (4) substitute—

“(4) The copy of the auditor’s report delivered to the registrar under this section must—

- (a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, and

(b) be signed by the auditor or (where the auditor is a firm) in the name of the firm by a person authorised to sign on its behalf,
or, if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified to the Secretary of State in accordance with that section.”.

9.—(1) Section 447 (filing obligations of quoted companies) has effect with the following adaptations.

(2) For subsection (3) substitute—

“(3) The copy of the balance sheet delivered to the registrar under this section must—

(a) state the name of the person who signed it on behalf of the board under section 414, and

(b) be signed on behalf of the board by a director of the company.

(3A) The copy of the directors’ remuneration report delivered to the registrar under this section must—

(a) state the name of the person who signed it on behalf of the board under section 422, and

(b) be signed on behalf of the board by a director or the secretary of the company.

(3B) The copy of the directors’ report delivered to the registrar under this section must—

(a) state the name of the person who signed it on behalf of the board under section 419, and

(b) be signed on behalf of the board by a director or the secretary of the company.”.

(3) For subsection (4) substitute—

“(4) The copy of the auditor’s report delivered to the registrar under this section must—

(a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, and

(b) be signed by the auditor or (where the auditor is a firm) in the name of the firm by a person authorised to sign on its behalf,

or, if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified to the Secretary of State in accordance with that section.”.

10.—(1) Section 449 (special auditor’s report where abbreviated accounts delivered) has effect with the following adaptation.

(2) After subsection (4) insert—

“(4A) The copy of the special report delivered to the registrar under this section must—

(a) be signed by the auditor or (where the auditor is a firm) in the name of the firm by a person authorised to sign on its behalf, or

(b) if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified to the Secretary of State in accordance with that section.”.

Audit: indemnity for costs of successfully defending proceedings (s.533)

11.—(1) Section 533 (indemnity for costs of successfully defending proceedings) has effect with the following adaptation.

(2) In paragraph (b) for “section 1157” substitute “section 727 of the Companies Act 1985 or Article 675 of the Companies (Northern Ireland) Order 1986”.

Authorised minimum: application of initial requirement (s.765)

12.—(1) Section 765 (minimum share capital requirement for public companies: application of initial requirement) has effect with the following adaptation.

(2) In subsection (1)(b) for “section 91(1)(a)” substitute “section 45(2)(a) of the Companies Act 1985 or Article 55(2)(a) of the Companies (Northern Ireland) Order 1986”.

Authorised minimum: application where shares denominated in different currencies etc (s.766)

13.—(1) Section 766 (authorised minimum: application where shares denominated in different currencies etc) has effect with the following adaptation.

(2) In subsection (4) for “sections 664 to 667” substitute “sections 147 to 149 of the Companies Act 1985 or Articles 157 to 159 of the Companies (Northern Ireland) Order 1986”.

Distributions (ss.829 to 853)

14.—(1) Section 829 (meaning of “distribution”) has effect with the following adaptation.

(2) In subsection (2)(c) for “Chapter 3, 4 or 5 of Part 18” substitute “Chapter 7 of Part 5 of the Companies Act 1985 or Chapter 7 of Part 6 of the Companies (Northern Ireland) Order 1986”.

15.—(1) Section 832 (distributions by investment companies out of accumulated revenue profits) has effect with the following adaptation.

(2) In subsection (5)(b)(i) for “Chapter 3 or 4 of Part 18” substitute “Chapter 7 of Part 5 of the Companies Act 1985 or Chapter 7 of Part 6 of the Companies (Northern Ireland) Order 1986”.

16.—(1) Section 833 (meaning of “investment company”) has effect with the following adaptation.

(2) In subsection (3) for “Chapter 3 or 4 of Part 18” substitute “Chapter 7 of Part 5 of the Companies Act 1985 or Chapter 7 of Part 6 of the Companies (Northern Ireland) Order 1986”.

17.—(1) Section 838 (requirements where interim accounts used) has effect with the following adaptations.

(2) In subsection (6) after “copy of the accounts” insert “, complying with the requirements of subsection (7),”.

(3) After that subsection insert—

“(7) The requirements referred to in subsection (6) are that the balance sheet comprised in the copy of the accounts delivered to the registrar must—

- (a) state the name of the person who signed it on behalf of the board, and
- (b) be signed on behalf of the board by a director of the company.”.

18.—(1) Section 839 (requirements where initial accounts used) has effect with the following adaptations.

(2) In subsection (7) after “any auditor’s statement” insert “, complying with the requirements of subsection (8),”.

(3) After that subsection insert—

“(8) The requirements referred to in subsection (7) are—

- (a) as regards the accounts, that the balance sheet comprised in the copy delivered to the registrar must—
 - (i) state the name of the person who signed it on behalf of the board, and
 - (ii) be signed on behalf of the board by a director of the company;
- (b) as regards the auditor’s report and any auditor’s statement, that the report or statement must—

- (i) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, and
 - (ii) be signed by the auditor or (where the auditor is a firm) in the name of the firm by a person authorised to sign on its behalf,
- or, if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified to the Secretary of State in accordance with that section.”.

19.—(1) Section 840 (successive distributions etc by reference to the same accounts) has effect with the following adaptations.

(2) In subsection (2)(b) for “section 678 or 679” substitute “section 151 of the Companies Act 1985 or Article 161 of the Companies (Northern Ireland) Order 1986”.

(3) In subsection (2)(d) for “section 705” substitute “section 168 of the Companies Act 1985 or Article 178 of the Companies (Northern Ireland) Order 1986”.

(4) In subsection (3) for “the same meaning as in Chapter 2 of Part 18 (see section 677)” substitute “the meaning given by section 152(1)(a) of the Companies Act 1985 or Article 162(1)(a) of the Companies (Northern Ireland) Order 1986”.

20.—(1) Section 847 (consequences of unlawful distribution) has effect with the following adaptation.

(2) In subsection (4)(a) for “section 678 or 679” substitute “section 151 of the Companies Act 1985 or Article 161 of the Companies (Northern Ireland) Order 1986”.

Mergers and divisions of public companies (s.923)

21.—(1) Section 923 (mergers and divisions of public companies: report on valuation of non-cash consideration for shares) has effect with the following adaptation.

(2) In subsection (3)(a) for “section 593” substitute “section 103(1) of the Companies Act 1985 or Article 113(1) of the Companies (Northern Ireland) Order 1986”.

PART 2

PROVISIONS COMING INTO FORCE ON 1ST OCTOBER 2008

Order requiring name to be changed following objection (s.73)

22.—(1) Section 73 (order requiring name to be changed) has effect with the following adaptations.

(2) In subsection (2)(a) for “section 67” substitute “section 28(2) of the Companies Act 1985 or Article 38(2) of the Companies (Northern Ireland) Order 1986”.

(3) In subsection (6) for “section 81(1)” substitute “section 28(6) of the Companies Act 1985 or Article 38(6) of the Companies (Northern Ireland) Order 1986”.

Trading disclosures: minor variations in form of name (s.85)

23.—(1) Section 85 (minor variations in form of name to be left out of account) has effect with the following adaptation.

(2) Omit subsections (1)(c) and (2).

Direction requiring company to appoint director (s.156)

24.—(1) Section 156 (direction requiring company to make appointment) has effect with the following adaptation.

(2) In subsections (4)(b) and (5) for “section 167” substitute “section 288(2) of the Companies Act 1985 or Article 296(2) of the Companies (Northern Ireland) Order 1986”.

SCHEDULE 2

Article 8(a)

REPEALS BROUGHT INTO FORCE ON 6TH APRIL 2008

PART 1

GREAT BRITAIN

<i>Short title and chapter</i>	<i>Extent of repeal brought into force</i>
Companies Act 1985 (c.6)	<p>In section 36A—</p> <p>(a) subsection (2);</p> <p>(b) in subsection (3) the words from “however” to the end;</p> <p>(c) subsections (4) to (8).</p> <p>Section 58.</p> <p>Section 81.</p> <p>Sections 117 and 118.</p> <p>Section 182(1)(b).</p> <p>Sections 183 to 197.</p> <p>Sections 221 to 234ZZA.</p> <p>Sections 234ZA to 251.</p> <p>Sections 254 to 281.</p> <p>Sections 283, 284 and 286.</p> <p>Section 310.</p> <p>Section 352(6) and (7).</p> <p>Section 380(4)(b).</p> <p>Sections 384 and 385.</p> <p>Sections 387 to 388A.</p> <p>Sections 389A to 392A.</p> <p>Sections 394 and 394A.</p> <p>Sections 425 to 427A.</p> <p>Sections 732 to 734.</p> <p>Sections 742A to 742C.</p> <p>In section 744, the definitions of “authorised minimum”, “debenture”, “insurance market activity”, “prescribed” and “undistributable reserves”.</p> <p>Schedules 4 to 11.</p> <p>Schedule 15B.</p> <p>In Schedule 24, the entries relating to sections 81(2), 117(7) and (7A), 183(6), 185(5), 189(1) and (2), 191(4), 221(5) or 222(4), 222(6), 231(6), 232(4), 233(5) and (6), 234(5), 234ZA(7), 234A(4), 234AA(5), 234AB(4), 234B(3) and (6), 234C(4), 236(4), 238(5), 239(3), 240(6), 241(2) or 242(2), 241A(9) and (10), 245(1) and (2), 245E(3), 245G(7), 251(6), 255(5), 384(5), 387(2), 389B(1), (2) and (4), 390(7), 391(2), 392(3), 392A(5), 394A(1) and (4), 425(4), 426(6) and (7) and 427(5).</p> <p>In Schedule 6, paragraphs 11 and 12.</p>
Insolvency Act 1985 (c.65)	

Insolvency Act 1986 (c.45)	In Schedule 13, the entry relating to section 196 of the Companies Act 1985.
Finance Act 1988 (c.39)	In section 117(3)— (a) in subsection (3), from the beginning to “that section”; (b) in subsection (4), “and (3)”.
Companies Act 1989 (c.40)	Sections 1 to 15 and 17 to 22. Sections 24 to 54. Section 114(2). Sections 118 to 122. Section 123(1) to (4). Section 137. Section 143(4). Section 207. Schedules 1 to 9. In Schedule 10, paragraphs 2, 4, 5, 7, 8 and 19 to 23. Schedules 11 to 13. In Schedule 17, paragraphs 5 and 6. In Schedule 19, paragraph 18.
Trade Marks Act 1994 (c.26)	In Schedule 4, in paragraph 1(2), the entries relating to Schedules 4 and 9 to the Companies Act 1985.
Requirements of Writing (Scotland) Act 1995 (c.7)	In Schedule 4, paragraphs 55 and 56.
Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40)	In Schedule 4, paragraphs 56(4) and 74(2).
Disability Discrimination Act 1995 (c.50)	In Schedule 6, paragraph 4.
Political Parties, Elections and Referendums Act 2000 (c.41)	Section 139(2). Section 140. In Schedule 23, paragraph 13.
Enterprise Act 2002 (c.40)	In Schedule 17, paragraphs 4 to 6.
Companies (Audit, Investigations and Community Enterprise) Act 2004 (c.27)	Sections 1 to 10. Section 11(1). Sections 12 and 13. Section 19(2). Schedule 1. In Schedule 2, paragraphs 1 to 3, 5, 10 and 24.
Civil Partnership Act 2004 (c.33)	In Schedule 27, paragraphs 104, 105 and 128.

PART 2

NORTHERN IRELAND

<i>Short title and chapter</i>	<i>Extent of repeal brought into force</i>
Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6))	In Article 2, the definitions of “authorised minimum”, “debenture”, “insurance market activity”, “prescribed” and “undistributable reserves”. Articles 10A to 10C. In Article 46A— (a) paragraph (2); (b) in paragraph (3) the words from “however”

	<p>to the end;</p> <p>(c) paragraphs (4) to (6).</p> <p>Article 68.</p> <p>Article 91.</p> <p>Articles 127 and 128.</p> <p>Article 192(1)(b).</p> <p>Articles 193 to 205.</p> <p>Articles 229 to 242ZZA.</p> <p>Articles 242ZA to 259.</p> <p>Articles 262 to 289.</p> <p>Articles 291, 292 and 294.</p> <p>Article 318.</p> <p>Article 360(6) and (7).</p> <p>Article 388(4)(b).</p> <p>Articles 392 and 393.</p> <p>Articles 395 to 396A.</p> <p>Articles 397A to 400A.</p> <p>Articles 401A and 401B.</p> <p>Articles 418 to 420A.</p> <p>Articles 680 to 680B.</p> <p>Schedules 4 to 11.</p> <p>Schedule 15B.</p> <p>In Schedule 23, the entries relating to Articles 91(2), 127(7) and (7A), 193(6), 195(5), 199(5) and (6), 200(4), 229(5) or 230(4), 230(6), 239(7), 240(4), 241(5) and (6), 242(5), 242A(4), 242AA(5), 242AB(4), 242B(3) and (6), 242C(4), 244(4), 246(5), 247(3), 248(6), 249(2) or 250(2), 249A(9) and (10), 253(1) and (2), 253E(3), 259(5), 395(2), 397A(2) and (3), 399(2), 400(3), 400A(5), 401B(1) and (4), 418(4), 419(6) and (7) and 420(5).</p> <p>Article 3.</p>
Industrial Relations (Northern Ireland) Order 1987 (S.I. 1987/936 (N.I. 9))	
Finance Act 1988 (c.39)	In section 117(3), the words from “and for” to the end.
Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19))	In Schedule 9, paragraphs 11 to 13, 16 and 17.
Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5))	Articles 3 to 17 and 19 to 24. Articles 27 to 56. Schedules 1 to 9. In Schedule 10, paragraphs 6 to 10. Schedules 11 to 13.
Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10))	Articles 54 to 58. Article 72. In Schedule 4, paragraphs 5 and 6. Section 11(2). In Schedule 2, paragraphs 11 to 15. Article 4(2).
Companies (Audit, Investigations and Community Enterprise) Act 2004 (c.27)	
Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005 (S.I. 2005/1452 (N.I. 7))	
Companies (Audit, Investigations and Community Enterprise) (Northern Ireland) Order 2005 (S.I. 2005/1967 (N.I. 17))	Articles 3 to 14. Schedule 1. In Schedule 2, paragraphs 1 to 9 and 16 to 18.

SCHEDULE 3

Article 8(b)

REPEALS BROUGHT INTO FORCE ON 1ST OCTOBER 2008

PART 1

GREAT BRITAIN

<i>Short title and chapter</i>	<i>Extent of repeal brought into force</i>
Companies Act 1985 (c.6)	Sections 151 to 153 and 155 to 158, to the extent specified in article 5(2) to this Order. Section 305. Section 317. Sections 348 and 349. Section 351. Section 727. In Schedule 24, the entries relating to sections 317(7), 348(2), 349(2), (3) and (4) and 351(5)(a) to (c).
Business Names Act 1985 (c.7)	Section 4, as it applies to companies.
Companies (Audit, Investigations and Community Enterprise) Act 2004 (c.27)	In Schedule 6, paragraph 8.

PART 2

NORTHERN IRELAND

<i>Short title and chapter</i>	<i>Extent of repeal brought into force</i>
Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6))	Articles 161 to 163 and 165 to 168, to the extent specified in article 5(2) to this Order. Article 313. Article 325. Articles 356 and 357. Article 359. Article 675. In Schedule 23, the entries relating to Articles 325(7), 356(2), 357(2), (3) and (4) and 359(3)(a) and (b).
Business Names (Northern Ireland) Order 1986 (S.I. 1986/1033 (N.I. 7))	Article 6, as it applies to companies.
Companies (Audit, Investigations and Community Enterprise) (Northern Ireland) Order 2005 (S.I. 2005/1967 (N.I. 17))	In Schedule 7, paragraph 6.

TRANSITIONAL PROVISIONS AND SAVINGS

PART 1

PROVISIONS COMING INTO FORCE ON 6TH APRIL 2008

Execution of documents (s.44)

1.—(1) Section 44 of the Companies Act 2006 (execution of documents) applies in relation to the execution of documents on or after 6th April 2008.

(2) Section 36A of the 1985 Act or Article 46A of the 1986 Order continues to apply in relation to documents executed before that date.

(3) For the purposes of this paragraph a document signed by one authorised signatory before 6th April 2008 and by another on or after that date is treated as executed on or after 6th April 2008.

Register of members: removal of entries relating to former members (s.121)

2.—(1) The power conferred by section 121 of the Companies Act 2006 (removal after ten years of entries relating to former members) is exercisable on and after 6th April 2008, whenever the period of ten years referred to in that provision expired.

(2) A copy of any details that were included in the register immediately before that date and that are removed from the register under that power must be retained by the company until 6th April 2008 or, if earlier, 20 years after the member concerned ceased to be a member.

Register of members: time limit for claims arising from entry (s.128)

3.—(1) Section 128 of the Companies Act 2006 (ten year time limit for claims arising from entry in register of members) applies to causes of action arising on or after 6th April 2008.

(2) The time limit for causes of action arising before that date is—

- (a) ten years from 6th April 2008, or
- (b) 20 years (as provided by section 352(7) of the 1985 Act or Article 360(7) of the 1986 Order) from when the cause of action arose,

whichever expires first.

(3) This is without prejudice to any lesser period of limitation (and, in Scotland, to any rule that the obligation giving rise to the liability prescribes before the expiry of that period).

Company secretaries (ss.270 to 274 and 280)

4.—(1) A private company whose articles immediately before 6th April 2008 expressly required it to have a secretary is a company “with a secretary” for the purposes of section 270(2) until its articles are amended to remove the requirement.

(2) For this purpose a provision—

- (a) requiring or authorising things to be done by or in relation to a secretary, or
- (b) as to the manner in which, or terms on which, a secretary is to be appointed or removed,

is not a provision expressly requiring the company to have a secretary.

5.—(1) Section 273 of the Companies Act 2006 (qualifications of secretaries of public companies) applies in relation to company secretaries appointed on or after 6th April 2008.

(2) Section 286 of the 1985 Act or Article 294 of the 1986 Order continues to apply in relation to company secretaries appointed before that date.

Accounts and reports (ss.380 to 389, 393 to 416, 418 to 462 and 464 to 474)

6.—(1) Sections 380 to 389, 393 to 416, 418 to 462 and 464 to 474 of the Companies Act 2006 (accounts and reports) apply to accounts and reports for financial years beginning on or after 6th April 2008.

(2) The corresponding provisions of the 1985 Act or the 1986 Order continue to apply to accounts and reports for financial years beginning before that date.

7. Any question whether—

- (a) for the purposes of section 382, 383, 384(3) or 467(3) of the Companies Act 2006 a company or group qualified as small in a financial year beginning before 6th April 2008, or
- (b) for the purposes of section 465 or 466 of that Act a company or group qualified as medium-sized in any such financial year,

is to be determined by reference to the corresponding provisions of the 1985 Act or the 1986 Order.

8. Until section 1068(1) of the Companies Act 2006 comes into force, the notice referred to in section 392 of that Act (notice of alteration of accounting reference date) must be given in the form prescribed for the purposes of section 225(1) of the 1985 Act or Article 233(1) of the 1986 Order.

Audit (ss.475 to 484 and 489 to 539)

9.—(1) In Chapter 1 of Part 16 of the Companies Act 2006 (requirement for audited accounts)—

- (a) sections 475 to 481 (general provisions) apply to accounts for financial years beginning on or after 6th April 2008;
- (b) sections 482 and 483 (companies subject to public sector audit) apply to accounts for financial years beginning on or after 1st April 2008;
- (c) section 484 (general power of amendment by regulations) applies accordingly.

(2) Sections 235(1), 249A(1), (3) and (6) to (7), 249AA and 249B of the 1985 Act or Articles 243(1), 257A(1), (3) and (6) to (7), 257AA and 257B of the 1986 Order continue to apply to accounts for financial years beginning before 6th April 2008.

(3) In section 482 of the Companies Act 2006 (non-profit-making companies subject to public sector audit) as it applies in relation to accounts for financial years beginning on or after 1st April 2008 and before 6th April 2008, the reference to the requirements of Part 16 of that Act shall be read as a reference to the requirements of Part 7 of the 1985 Act or Part 8 of the 1986 Order.

10.—(1) In Chapter 2 of Part 16 of that Act (appointment of auditors)—

- (a) sections 489 and 490 (appointment of auditors by public companies) apply to appointments for financial years beginning on or after 6th April 2008;
- (b) section 491 (term of office of auditors of public company) applies to auditors appointed for financial years beginning on or after that date.

(2) Sections 384, 385, 387 and 388(1), (3) and (4) of the 1985 Act or Articles 392, 393, 395 and 396(1), (3) and (4) of the 1986 Order continue to apply to appointments by public companies for financial years beginning before that date.

11.—(1) In that Chapter, the following provisions apply to auditors appointed for financial years beginning on or after 6th April 2008—

- section 492 (fixing of auditor's remuneration),
- section 493 (disclosure of terms of audit appointment), and

section 494 (disclosure of services provided by auditor or associated and related remuneration).

(2) Sections 390A and 390B of the 1985 Act or Articles 398A and 398B of the 1986 Order continue to apply to auditors appointed for financial years beginning before that date.

(3) The repeal of section 390A of the 1985 Act and Article 398A of the 1986 Order (remuneration of auditors) does not affect the operation of any such resolution as is mentioned in paragraph 45 of Schedule 3 to the Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007.

12.—(1) In Chapter 3 of Part 16 of that Act (functions of auditor)—

(a) sections 495 to 498 (auditor's report and duties of auditor) apply to auditors' reports on accounts or reports for financial years beginning on or after 6th April 2008;

(b) sections 499 to 501 (rights of auditors) apply to auditors appointed for financial years beginning on or after that date;

(c) sections 503 to 509 (signature of auditor's report and offences in connection with auditor's report) apply to auditors' reports on accounts or reports for financial years beginning on or after that date.

(2) Sections 235 to 237, 389A and 389B of the 1985 Act or Articles 243 to 245, 397A and 397B of the 1986 Order continue to apply as regards financial years beginning before that date.

(3) Section 502 of the Companies Act 2006 (auditor's rights in relation to resolutions and meetings) applies to auditors appointed on or after 6th April 2008.

(4) Section 390 of the 1985 Act or Article 398 of the 1986 Order continues to apply to auditors appointed before that date.

13.—(1) In Chapter 4 of Part 16 of that Act (removal, resignation, etc of auditors), sections 510 to 513 (removal of auditor) apply where notice of the intended resolution is given to the company on or after 6th April 2008.

(2) Sections 391 and 391A of the 1985 Act or Articles 399 and 399A of the 1986 Order continue to apply where notice of the intended resolution is given to the company before that date.

(3) Until section 1068(1) of the Companies Act 2006 comes into force, the notice referred to in section 512(1) (notice to registrar of resolution removing auditor from office) must be in the form prescribed for the purposes of section 391(2) of the 1985 Act or Article 399(2) of the 1986 Order.

(4) In section 513 (rights of auditor removed from office) as it applies in relation to an auditor appointed before 6th April 2008, the reference to rights under section 502(2) shall be read as a reference to rights under section 390(1) of the 1985 Act or Article 398(1) of the 1986 Order.

14.—(1) In that Chapter, sections 514 and 515 (failure to re-appoint auditor) apply to appointments for financial years beginning on or after 6th April 2008.

(2) Section 391A of the 1985 Act or Article 399A of the 1986 Order continues to apply to appointments for financial years beginning before that date.

15.—(1) In that Chapter, sections 516 to 518 (resignation of auditor) apply to resignations occurring on or after 6th April 2008.

(2) Sections 392 and 392A of the 1985 Act or Articles 400 and 400A of the 1986 Order continue to apply to resignations occurring before that date.

16.—(1) In that Chapter, sections 519 to 525 (statement by auditor ceasing to hold office) apply where the auditor ceases to hold office on or after 6th April 2008.

(2) Sections 394 and 394A of the 1985 Act or Articles 401A and 401B of the 1986 Order continue to apply where the auditor ceases to hold office before that date.

17.—(1) In that Chapter, section 526 (effect of casual vacancies) applies where the vacancy occurs on or after 6th April 2008.

(2) Section 388(2) of the 1985 Act or Article 396(2) of the 1986 Order continues to apply where the vacancy occurred before that date.

18. In Chapter 5 of Part 16 of that Act (quoted companies: right of members to raise audit concerns at accounts meeting), in section 527 (members' powers to require website publication of audit concerns)—

- (a) subsection (1)(a) (matters relating to audit of company's accounts) applies to accounts for financial years beginning on or after 6th April 2008, and
- (b) subsection (1)(b) (matters relating to circumstances connected with an auditor of the company) applies to auditors appointed for financial years beginning on or after that date.

19. A resolution passed before 6th April 2008 authorising a liability limitation agreement is effective for the purposes of section 536 (authorisation of agreement by members of company) if it complies with the requirements of that section.

Debentures (ss.738 to 754)

20. Section 741 of the Companies Act 2006 (registration of allotment of debentures) applies to allotments of debentures made on or after 6th April 2008.

21.—(1) Until regulations under section 1136 of the Companies Act 2006 come into force specifying a place for the purposes of section 743(1)(b), a company's register of debenture holders may be kept—

- (a) at any office of the company at which the work of making it up is done, or
- (b) if the company arranges with some other person for the making up of the register to be undertaken on its behalf by that other person, at the office of that other person at which the work is done,

provided that place is situated in the part of the United Kingdom in which the company is registered.

(2) Until section 1068(1) of the Companies Act 2006 comes into force, the notice referred to in section 743(2) (notice of place where register of debenture holders is kept) must be given in the form prescribed for the purposes of section 190(5) of the 1985 Act or Article 199(3) of the 1986 Order.

22.—(1) Sections 744 to 747 (register of debenture holders: right to inspect or require copy) and section 749 (right of debenture holder to copy of deed) of the Companies Act 2006 apply where the request is made on or after 6th April 2008.

(2) Section 191(1) to (6) of the 1985 Act or Article 200(1) to (6) of the 1986 Order continue to apply to requests made before that date.

23.—(1) Section 748 of the Companies Act 2006 (ten year time limit for claims arising from entry in register of debenture holders) applies to causes of action arising on or after 6th April 2008.

(2) The time limit for causes of action arising before that date is—

- (a) ten years from 6th April 2008, or
- (b) 20 years (as provided by section 191(7) of the 1985 Act or Article 200(7) of the 1986 Order) from when the cause of action arose,

whichever expires first.

(3) This is without prejudice to any lesser period of limitation (and, in Scotland, to any rule that the obligation giving rise to the liability prescribes before the expiry of that period).

Prohibition of public offers by private companies (ss.755 to 759)

24.—(1) Sections 755 and 756 of the Companies Act 2006 (prohibition of public offers by private companies) apply to offers made on or after 6th April 2008.

(2) Section 81 of the 1985 Act or Article 91 of the 1986 Order continues to apply to offers made before that date.

25. Sections 758 and 759 of the Companies Act 2006 (enforcement of prohibition: orders after contravention) apply to offers made on or after 6th April 2008.

Minimum share capital requirement for public companies (ss.761 to 767)

26. A certificate issued under section 117 of the 1985 Act or Article 127 of the 1986 Order (public company share capital requirements) has effect on and after 6th April 2008 as if issued under section 761 of the Companies Act 2006.

27.—(1) Section 762 of the Companies Act 2006 (procedure for obtaining trading certificate) applies to applications made on or after 6th April 2008.

(2) Section 117(1) to (5) and (7A) of the 1985 Act or Article 127(1) to (5) and (7A) of the 1986 Order continue to apply to applications made before 6th April 2008.

(3) An application is treated as made before 6th April 2008 if—

- (a) a statutory declaration is delivered to the registrar in accordance with section 117(2) of the 1985 Act or Article 127(2) of the 1986 Order, and
- (b) the declaration was signed before that date.

28.—(1) Until section 1068(1) of the Companies Act 2006 comes into force—

- (a) an application under section 762 of that Act must be in the form prescribed for the purposes of section 117(2) of the 1985 Act or Article 127(2) of the 1986 Order;
- (b) the statement and information required by section 762(1)(a) to (c) must be provided on the form prescribed for the statutory declaration required by section 117(3) of the 1985 Act or Article 127(3) of the 1986 Order (but not in the form of a statutory declaration and disregarding so much of the form as requires other information);
- (c) a company seeking to satisfy the minimum share capital requirement in euros may adapt the form accordingly; and
- (d) the form must be signed by a director or by the company secretary.

(2) A form completed in accordance with sub-paragraph (1) is treated as the statement of compliance required by section 762(1)(d) and (2).

(3) By adapting the form as mentioned in paragraph (1)(c) the applicant is treated as electing that euros shall be the currency by reference to which it is determined whether the requirement mentioned in section 765(1) is met.

(4) By not so adapting the form the applicant is treated as electing that sterling shall be that currency.

(5) Sub-paragraphs (1)(c), (3) and (4) above also apply in relation to the form prescribed for the purposes of section 43(3) of the 1985 Act or Article 53(3) of the 1986 Order (re-registration or private company as public) where a company seeks to satisfy the minimum share capital requirement in section 45(2)(a) of that Act or Article 55(2)(a) of that Order in euros.

29.—(1) Section 767 of the Companies Act 2006 (consequences of doing business etc without a trading certificate) applies in relation to things done on or after 6th April 2008.

(2) Section 117(6), (7) and (8) of the 1985 Act or Article 127(6), (7) and (8) of the 1986 Order continue to apply in relation to things done before that date.

Certification and transfer of securities (ss.769 to 782)

30. Section 771 of the Companies Act 2006 (procedure on transfer being lodged) applies to transfers lodged with the company on or after 6th April 2008.

31. Section 780 of the Companies Act 2006 (duty of company as to issue of certificates on surrender of share warrant) applies to share warrants surrendered on or after 6th April 2008.

Request to inspect a company's register of interests disclosed (ss.811(4), 812 and 814)

32. Sections 811(4), 812 and 814 of the Companies Act 2006 (inspection of register of interests disclosed: further provision about requests) apply to requests under section 811 of that Act made on or after 6th April 2008.

Distributions (ss.829 to 853)

33.—(1) Sections 829 to 853 of the Companies Act 2006 (distributions) apply to distributions made on or after 6th April 2008.

(2) Sections 263 to 281 of the 1985 Act or Articles 271 to 289 of the 1986 Order continue to apply to distributions made before that date.

34. Until section 1068(1) of the Companies Act 2006 comes into force—

- (a) the notice referred to in section 833(1)(a) (notice of intention to carry on business as investment company) must be in the form prescribed for the purposes of section 266(1) of the 1985 Act or Article 274(1) of the 1986 Order; and
- (b) the notice referred to in section 833(4) (notice that company no longer wishes to be an investment company) must be in the form prescribed for the purposes of section 266(3) of the 1985 Act or Article 274(3) of the 1986 Order.

35.—(1) The relevant accounts for the purposes of Chapter 2 of Part 23 of the Companies Act 2006 (justification of distribution by reference to accounts) may be accounts for financial years beginning before 6th April 2008 (to which the provisions of the 1985 Act or 1986 Order apply).

(2) In that case the provisions of that Chapter and Chapter 3 of that Part (supplementary provisions) have effect with the following adaptations—

- (a) in section 836(1)(b)(i), for “provisions of a kind specified for the purposes of this section by regulations under section 396” substitute “provisions of any of the kinds mentioned in paragraphs 88 and 89 of Schedule 4 to the Companies Act 1985 or paragraphs 87 and 88 of Schedule 4 to the Companies (Northern Ireland) Order 1986”;
- (b) in section 837—
 - (i) in subsection (1)(a), for “section 423” substitute “section 238 of the Companies Act 1985 or Article 246 of the Companies (Northern Ireland) Order 1986”;
 - (ii) in subsection (1)(b), for “section 426” substitute “section 251 of the Companies Act 1985 or Article 259 of the Companies (Northern Ireland) Order 1986”;
 - (iii) in subsection (2), for “this Act” substitute “the Companies Act 1985 or the Companies (Northern Ireland) Order 1986”;
 - (iv) in subsection (4)(b)(i), for “section 423” substitute “section 238 of the Companies Act 1985 or Article 246 of the Companies (Northern Ireland) Order 1986”;
- (c) in section 838—
 - (i) in subsection (4), for “sections 395 to 397” substitute “sections 226 to 226B of the Companies Act 1985 or Articles 234 to 234B of the Companies (Northern Ireland) Order 1986”;
 - (ii) in subsection (5), for “section 414” substitute “233 of the Companies Act 1985 or Article 241 of the Companies (Northern Ireland) Order 1986”;
 - (iii) in subsection (6), for “Part 35 of this Act” substitute “Part 24 of the Companies Act 1985 or Part 24 of the Companies (Northern Ireland) Order 1986”;
- (d) in section 839—
 - (i) in subsection (4), for “sections 395 to 397” substitute “sections 226 to 226B of the Companies Act 1985 or Articles 234 to 234B of the Companies (Northern Ireland) Order 1986”;
 - (ii) in subsection (6)(b)(i), for “section 423” substitute “section 238 of the Companies Act 1985 or Article 246 of the Companies (Northern Ireland) Order 1986”;

- (iii) in subsection (7), for “Part 35 of this Act” substitute “Part 24 of the Companies Act 1985 or Part 24 of the Companies (Northern Ireland) Order 1986”;
- (e) in section 841(2)(a), for “provisions of a kind specified for the purposes of this paragraph by regulations under section 396” to the end substitute “provisions of any kind mentioned in paragraphs 88 and 89 of Schedule 4 to the Companies Act 1985 or paragraphs 87 and 88 of Schedule 4 to the Companies (Northern Ireland) Order 1986”;
- (f) in section 844(3)(b)(i), for “the note required” to the end substitute “the note to the accounts required by paragraph 20 of Schedule 4 or paragraph 20 of Schedule 8 to the Companies Act 1985 or paragraph 20 of Schedule 4 or paragraph 20 of Schedule 8 to the Companies (Northern Ireland) Order 1986 (reasons for showing development costs as an asset)”;
- (g) in section 846(2)(b), for “any provision of regulations under section 396” to the end substitute “paragraphs 12(a) and 34(3)(a) of Schedule 4 or paragraphs 12(a) or 34(3)(a) of Schedule 8 to the Companies Act 1985 or paragraphs 12(a) and 34(3)(a) of Schedule 4 or paragraphs 12(a) or 34(3)(a) of Schedule 8 to the Companies (Northern Ireland) Order 1986 (only realised profits to be included in or transferred to the profit and loss account)”.

Arrangements and reconstructions (ss.896 to 901)

36.—(1) Section 901 of the Companies Act 2006 (obligations of company with respect to articles etc) applies to orders of the court made on or after 6th April 2008, including orders made under section 425(2) or 427 of the 1985 Act or 418(2) or 420 of the 1986 Order.

(2) Section 425(3) and (4) of the 1985 Act or Article 418(3) and (4) of the 1986 Order continues to apply to orders made before that date.

Statutory auditors (ss.1209 to 1241 and 1245 to 1264)

37.—(1) The following provisions of Chapter 2 of Part 42 of the Companies Act 2006 (statutory auditors: individuals and firms) apply to the appointment of auditors for financial years beginning on or after 6th April 2008—

- (a) sections 1212 and 1213 (eligibility for appointment);
- (b) sections 1214 and 1215 (independence requirement);
- (c) section 1216 (effect of appointment of partnership).

(2) Sections 25 to 28 of the Companies Act 1989(a) or Articles 28 to 31 of the Companies (Northern Ireland) Order 1990(b) continue to apply to auditors appointed for financial years beginning before that date.

38.—(1) The following provisions of that Chapter apply in relation to the supervision and qualification of auditors appointed for financial years beginning on or after 6th April 2008—

- (a) sections 1217 and 1218 and Schedule 10 (supervisory bodies);
- (b) sections 1219 to 1222 and Schedule 11 (professional qualifications and qualifying bodies).

(2) Sections 30 to 34 and 48 of, and Schedules 11 and 12 to, the Companies Act 1989 or Articles 33 to 36 and 50 of, and Schedules 11 and 12 to, the Companies (Northern Ireland) Order 1990 continue to apply in relation to the supervision and qualification of auditors appointed for financial years beginning before that date.

(3) Any declaration by the Secretary of State in force under section 33 of the Companies Act 1989 or Article 36 of the Companies (Northern Ireland) Order 1990 (approval of overseas qualifications) immediately before 6th April 2008 continues in force on and after that date as if made under section 1221 of the Companies Act 2006.

(a) 1989 c.40.
 (b) S.I. 1990/593 (N.I. 5).

39. The repeal of sections 37 and 38 of the Companies Act 1989 (information to be provided to the Secretary of State) or Articles 39 and 40 of the Companies (Northern Ireland) Order 1990 (information to be provided to the Department of Enterprise, Trade and Investment) does not affect the operation of those provisions in relation to functions exercised under Part 2 of that Act or Part 3 of that Order on or after 6th April 2008.

40.—(1) Section 1226(2) of the Companies Act 2006 (eligibility of Auditor General for appointment as statutory auditor) applies to appointment as a statutory auditor for financial years beginning on or after 1st April 2008.

(2) Sections 1229 and 1230 (supervision of Auditors General by the Independent Supervisor) apply accordingly.

41.—(1) The following provisions of Chapter 6 of Part 42 of the Companies Act 2006 (statutory auditors: supplementary and general provisions) apply to auditors, supervisory bodies or qualifying bodies to whom Chapters 2 to 5 of that Part apply—

- (a) sections 1248 and 1249 (second audits);
- (b) section 1250 (false and misleading statements);
- (c) section 1251 (fees);
- (d) section 1254 (directions to comply with international obligations);
- (e) sections 1255 to 1257 (general provisions about offences);
- (f) sections 1258 and 1259 (notices etc).

(2) Sections 29, 40 to 45 and 49 of the Companies Act 1989 or Articles 32, 42 to 47 and 51 of the Companies (Northern Ireland) Order 1990 continue to apply to auditors, supervisory bodies or qualifying bodies to whom sections 25 to 28 and 30 to 39 of that Act or Articles 28 to 31 and 33 to 41 of that Order apply.

(3) The repeal of sections 52 to 54 of the Companies Act 1989 or Articles 54 to 56 of the Companies (Northern Ireland) Order 1990 (definitions) does not affect the operation of those provisions for the purposes of interpreting provisions of that Act or that Order that continue to apply on or after 6th April 2008.

42.—(1) The repeal of sections 46 and 46A of, and Schedule 13 to, the Companies Act 1989 (delegation of functions of Secretary of State) does not affect the operation of those provisions in relation to functions exercised under Part 2 of that Act on or after 6th April 2008.

(2) The repeal of Articles 48 and 48A of, and Schedule 13 to, the Companies (Northern Ireland) Order 1990 (delegation of functions of Department of Enterprise, Trade and Investment) does not affect the operation of those provisions in relation to functions exercised under Part 3 of that Order on or after 6th April 2008.

Expenses of winding up (s.1282)

43. Section 1282 of the Companies Act 2006 (expenses of winding up) applies—

- (a) to a winding up by the court where the winding-up order was made on or after 6th April 2008, and
- (b) to a voluntary winding up where the resolution for winding up was passed on or after that date.

Repeal of provisions relating to prosecution of offences

44. The repeal of sections 732 to 734 of the 1985 Act or Articles 680 to 680B of the 1986 Order does not affect the operation of those provisions in relation to offences committed before 6th April 2008.

PART 2

PROVISIONS COMING INTO FORCE ON 29TH JUNE 2008

45. Sections 1242 to 1244 of, and Schedule 12 to, the Companies Act 2006 (duties of third country auditors: information to be supplied by third country auditors) apply to third country auditors appointed for financial years beginning on or after 29th June 2008.

PART 3

PROVISIONS COMING INTO FORCE ON 1ST OCTOBER 2008

Requirement to have at least one director who is a natural person (s.155)

46. If on 8th November 2006—

- (a) none of a company's directors were natural persons, and
- (b) section 282 of the 1985 Act or Article 290 of the 1986 Order (requirement as to number of directors) was complied with in relation to the company,

section 155 of the Companies Act 2006 (companies required to have at least one director who is a natural person) does not apply to the company until 1st October 2010.

Duty of directors to avoid conflicts of interest (s.175)

47.—(1) Section 175 of the Companies Act 2006 (duty to avoid conflicts of interest) applies where the situation described in subsection (1) of that section arises on or after 1st October 2008.

(2) The law that applied before that date continues to apply to such a situation that arose before that date.

(3) Section 175(5)(a) of that Act (private companies: authorisation by directors) applies—

- (a) to companies incorporated on or after 1st October 2008, and
- (b) to companies incorporated before that date where the members of the company have resolved (before, on or after 1st October 2008) that authorisation may be given in accordance with that provision.

(4) Chapter 3 of Part 3 of the Companies Act 2006 (resolutions and agreements affecting a company's constitution) applies to any such resolution.

(5) For the purposes of section 30 of that Act (copies of resolutions to be forwarded to registrar) such a resolution passed before 1st October 2008 is treated as if passed on that date.

Declaration by directors of interest in proposed transaction or arrangement (s.177)

48.—(1) Section 177(1) of the Companies Act 2006 (duty of director to declare interest in proposed transaction or arrangement) applies where the duty to declare an interest arises on or after 1st October 2008.

(2) Section 317 of the 1985 Act or Article 325 of the 1986 Order continues to apply in relation to a duty arising before that date.

(3) For the purposes of section 177(3) of the Companies Act 2006 (previous declaration under that section proving or becoming inadequate), a declaration of interest in relation to a proposed transaction or arrangement made before 1st October 2008 under section 317 of the 1985 Act or Article 325 of the 1986 Order is treated on and after that date as if made under section 177 of the Companies Act 2006.

General duties of directors: approval by members (s.180(2))

49. The reference in section 180(2) of the Companies Act 2006 (exclusion of general duties where approval of members given) to approval given under Chapter 4 of Part 10 of that Act (transactions requiring approval of members) includes approval given by a resolution passed before 1st October 2007 that is effective by virtue of paragraph 6(2), 7(2), 8(2) or 12(2) of Schedule 3 to the Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007.

Declaration of interest in existing transaction or arrangement (ss.182 to 187)

50.—(1) Sections 182 to 187 of the Companies Act 2006 (declaration by director of interest in existing transaction or arrangement) apply in relation to transactions or arrangements entered into by a company on or after 1st October 2008.

(2) Section 317 of the 1985 Act or Article 325 of the 1986 Order continues to apply in relation to transactions or arrangements entered into before that date.

(3) For the purposes of section 182(1) of the Companies Act 2006 (declaration of interest in existing transaction not previously declared under section 177), a declaration of interest made before 1st October 2008 under section 317 of the 1985 Act or Article 325 of the 1986 Order is treated on and after that date as if made under section 177.

(4) For the purposes of section 182(3) of the Companies Act 2006 (previous declaration under that section proving or becoming inadequate), a declaration of interest made before 1st October 2008 under section 317 of the 1985 Act or Article 325 of the 1986 Order is treated on and after that date as if made under section 182.

Repeal of prohibition on private companies giving financial assistance for acquisition of shares

51.—(1) The repeal by this Order of sections 151 to 153 and 155 to 158 of the Companies Act 1985 or Articles 161 to 163 and 165 to 168 of the Companies (Northern Ireland) Order 1986 (financial assistance for acquisition of shares), to the extent specified in article 5(2) of this Order, applies in relation to financial assistance given on or after 1st October 2008.

(2) This is so, in a case within section 151(2) or Article 161(2), even if the shares in question were acquired, and the liability in question incurred, before that date.

52.—(1) This paragraph applies to anything that would have been unlawful by reason of any rule of law if that rule had not ceased to have effect, or been modified, as a consequence of the enactment of—

- (a) any provision contained in section 151 to 153 or 155 to 158 of the 1985 Act or Article 161 to 163 or 165 to 168 of the 1986 Order (prohibition of financial assistance for acquisition of shares), or
- (b) any former statutory provision substantially similar in effect to any such provision.

(2) The repeal by this Order of those sections or Articles shall not cause anything to which this paragraph applies to be rendered unlawful by reason of any rule of law that had so ceased to have effect or been modified.

AMENDMENTS OF EARLIER COMMENCEMENT ORDERS

Companies Act 2006 (Commencement No. 1, Transitional Provisions and Savings) Order 2006 (S.I. 2006/3428 (C. 132))

1. In paragraph 2(4) of Schedule 5 to the Companies Act 2006 (Commencement No. 1, Transitional Provisions and Savings) Order 2006, for “are made” substitute “come into force”.

Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194 (C. 84))

2.—(1) The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 is amended as follows.

(2) In Part 1 of Schedule 2 omit the entry relating to section 734(1) of the Companies Act 2006.

(3) In paragraphs 13(2) and 16(2) of Schedule 3, for “are made” substitute “come into force”.

(4) In paragraph 23 of that Schedule (saving for extraordinary resolutions provided for under company’s memorandum or articles or under contract), make the existing provision sub-paragraph (1) and after it insert—

“(2) Chapter 3 of Part 3 of the Companies Act 2006 (resolutions affecting a company’s constitution) applies to any such resolution.”.

(5) After that paragraph insert—

“**23A.**—(1) This paragraph applies where, immediately before 1st October 2007, the articles of a company provided that in the event of equality of votes on an ordinary resolution, whether on a show of hands or on a poll, the chairman should have a casting vote in addition to any other vote that the chairman might have.

(2) If that provision has not been removed by a subsequent alteration of the articles, it continues to have effect notwithstanding sections 281(3) and 282.

(3) If that provision has been removed by a subsequent alteration of the articles, the company may at any time restore that provision, which shall have effect notwithstanding sections 281(3) and 282.”.

(6) In paragraph 32 of that Schedule, after sub-paragraph (3) add—

“(4) A company is not to be treated as one whose articles expressly require it to hold an annual general meeting if immediately before 1st October 2007 there was in force in relation to the company a resolution under section 366A of the 1985 Act or Article 374A of the 1986 Order (election to dispense with annual general meetings).”.

(7) After paragraph 51 of that Schedule insert—

“Requirements as to form, authentication and manner of delivery

52. Where any provision of this Schedule authorises or requires the use of a form prescribed under the 1985 Act or 1986 Order, the power to prescribe the form continues to be exercisable (so that the prescribed form may be amended or replaced) so long as the use of the form continues to be authorised or required.

53. Until section 1068(1) comes into force, the provisions of section 707B of 1985 Act or Article 656B of the 1986 Order (delivery using electronic communications) apply in relation to documents required or authorised to be delivered to the registrar under the provisions of the Companies Act 2006 brought into force by this Order.”.

EXPLANATORY NOTE

(This note is not part of the Order)

This is the fifth Commencement Order made under the Companies Act 2006 (c.46) (“the Act”). Part 47, and certain provisions in Parts 43, 44 and 46 of the Act came into force on the passing of the Act.

Article 3(1) brings into force on 6th April 2008 provisions about—

- execution of documents;
- register of members: removal of entries and time limit for claims;
- company secretaries (in part);
- accounts and reports (in part);
- audit (in part);
- transferability of shares;
- debentures;
- private and public companies;
- certification and transfer of securities;
- exercise of right to inspect register of interests disclosed;
- distributions;
- arrangements and reconstructions;
- mergers and divisions of public companies;
- consents required for certain prosecutions;
- meaning of “undertaking” and related expressions;
- meaning of “banking company” and “banking group”;
- meaning of “insurance company” and related expressions;
- dormant companies;
- references to requirements of the Act;
- minor definitions: general (in part – the definitions of “credit institution” and “working day”);
- statutory auditors;
- payment of expenses of winding up.

Article 3(2) brings into force on 6th April 2008 a provision about the registrar’s rules so far as necessary to enable rules to be made before they have to come into force and to enable the duty to publicise and make available copies of rules to apply.

Article 4 brings into force on 29th June 2008 provisions about the duties of registered third country auditors.

Article 5(1) brings into force on 1st October 2008 provisions about—

- objections to company names;
- trading disclosures;
- appointment of directors (in part);
- general duties of directors (in part);
- duty of directors to declare interest in existing transaction or arrangement;
- power of court to grant relief in certain cases;
- information as to exercise of voting rights by institutional investors.

Article 5(2) brings into force on 1st October 2008 the repeal of provisions in the Companies Act 1985 about the provision of financial assistance for the acquisition of shares so far as they apply to the acquisition of shares in private companies.

Articles 3(3), 3(4) and 5(3) bring into force other provisions, but only so far as necessary for the purposes of the provisions mentioned above.

Articles 3(5) and 5(4) bring the extension of the Act to Northern Ireland into force so far as necessary for the purposes of the provisions mentioned above.

Article 6 and Schedule 1 make transitional adaptations of the provisions being brought into force as explained above. These adaptations are needed because not all of the Act is yet in force: their principal effect is to replace references to other provisions of the Act not yet in force with references to corresponding provisions of the Companies Act 1985 and the Companies (Northern Ireland) Order 1986 (“the old law”) not yet repealed.

Article 7 provides that if a provision being brought into force as explained above uses an expression defined in the old law, that definition applies until it is repealed and replaced by the corresponding definition in the Act.

Article 8 and Schedules 2 and 3 bring some of the repeals in the Act into force.

Article 9 and Schedule 4 make transitional provisions and savings, largely to deal with things which straddle a commencement date.

Article 10 revokes transitional adaptations in earlier commencement orders which have been overtaken by commencement of the provisions being brought into force as explained above.

Article 11 and Schedule 5 contain amendments of earlier commencement orders.

Article 12(1) keeps the old law alive for limited liability partnerships.

Article 12(2) ensures that the operation of the continuity of law provision in section 1297 of the Act is not affected by the earlier provisions of this Order.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The provisions of the Companies Act 2006 in respect of which an entry is made in the table below have been brought into force on the date specified alongside their entry in the second column, by the statutory instrument specified in the third column.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 2	6th April 2007	S.I. 2007/1093, C. 49
Sections 29 and 30	1st October 2007	S.I. 2007/2194, C. 84
Sections 116 to 119	1st October 2007	S.I. 2007/2194, C. 84
Sections 145 to 153	1st October 2007	S.I. 2007/2194, C. 84
Section 154	1st October 2007	S.I. 2007/2194, C. 84
Sections 160 and 161	1st October 2007	S.I. 2007/2194, C. 84
Sections 168 to 174	1st October 2007	S.I. 2007/2194, C. 84
Sections 178 to 181	1st October 2007	S.I. 2007/2194, C. 84
Sections 188 to 239	1st October 2007	S.I. 2007/2194, C. 84
Sections 248 to 269	1st October 2007	S.I. 2007/2194, C. 84
Sections 281 to 307	1st October 2007	S.I. 2007/2194, C. 84
Sections 308 and 309	20th January 2007	S.I. 2006/3428, C. 132
Sections 310 to 326	1st October 2007	S.I. 2007/2194, C. 84
Sections 327(1), (2)(a) and (b) and (3)	1st October 2007	S.I. 2007/2194, C. 84
Sections 328 and 329	1st October 2007	S.I. 2007/2194, C. 84
Section 330(1) to (5), (6)(a) and (b) and (7)	1st October 2007	S.I. 2007/2194, C. 84
Sections 331 and 332	1st October 2007	S.I. 2007/2194, C. 84
Section 333	20th January 2007	S.I. 2006/3428, C. 132
Sections 334 to 361	1st October 2007	S.I. 2007/2194, C. 84
Sections 362 to 379 (in respect of England, Wales and Scotland), with exceptions	1st October 2007	S.I. 2007/2194, C. 84
Sections 362 to 379 (in respect of Northern Ireland), with exceptions	1st November 2007	S.I. 2007/2194, C. 84
Sections 362 to 367 and 378 so far as not already in force	1st October 2008	S.I. 2007/2194, C. 84
Section 417	1st October 2007	S.I. 2007/2194, C. 84
Section 463	20th January 2007	S.I. 2006/3428, C. 132
Sections 485 to 488	1st October 2007	S.I. 2007/2194, C. 84
Sections 791 to 810	20th January 2007	S.I. 2006/3428, C. 132
Section 811(1) to (3)	20th January 2007	S.I. 2006/3428, C. 132
Section 813	20th January 2007	S.I. 2006/3428, C. 132
Sections 815 to 828	20th January 2007	S.I. 2006/3428, C. 132
Sections 942 to 992 and Schedule 2	6th April 2007	S.I. 2007/1093, C. 49
Sections 993 to 999	1st October 2007	S.I. 2007/2194, C. 84
Sections 1035 to 1039	1st October 2007	S.I. 2007/2194, C. 84
Section 1043	6th April 2007	S.I. 2007/1093, C. 49
Section 1063 (in respect of England, Wales and Scotland)	6th April 2007	S.I. 2006/3428, C. 132
Section 1068 (except subsection (5)) for limited purposes	15th December 2007	S.I. 2007/2194, C. 84
Section 1068(5)	1st January 2007	S.I. 2006/3428, C. 132

Sections 1077 to 1080	1st January 2007	S.I. 2006/3428, C. 132
Sections 1085 to 1092	1st January 2007	S.I. 2006/3428, C. 132
Sections 1102 to 1107	1st January 2007	S.I. 2006/3428, C. 132
Section 1111	1st January 2007	S.I. 2006/3428, C. 132
Sections 1121 to 1123 as they apply to offences under Part 14 or 15 of the Companies Act 1985 (c.46)	1st October 2007	S.I. 2007/2194, C. 84
Section 1124 and Schedule 3	1st October 2007	S.I. 2007/2194, C. 84
Sections 1125 to 1133 as they apply to offences under Part 14 or 15 of the Companies Act 1985 (c.46)	1st October 2007	S.I. 2007/2194, C. 84
Section 1137(1), (4), (5)(b) and (6)	30th September 2007	S.I. 2007/2607, C. 101
Sections 1143 to 1148 and Schedules 4 and 5	20th January 2007	S.I. 2006/3428, C. 132
Section 1167	30th September 2007	S.I. 2007/2607, C. 101
Section 1170	6th April 2007	S.I. 2007/1093, C. 49
Sections 1176 to 1179	6th April 2007	S.I. 2006/3428, C. 132
Section 1281	6th April 2007	S.I. 2006/3428, C. 132
Section 1284 so far as it relates to Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004	6th April 2007	S.I. 2007/1093, C. 49
Section 1295 and Schedule 16 (partially)	1st and 20th January, 6th April and 1st October 2007	S.I. 2006/3428, C. 132 S.I. 2007/1093, C. 49 S.I. 2007/2194, C. 84
Sections 2, 1068(1) to (4), (6) and (7), 1114, 1117, 1120, 1168, 1173 and 1284 so far as necessary for the purposes of the provisions brought into force on 1st January 2007	1st January 2007	S.I. 2006/3428, C. 132
Sections 2, 1121 and 1122, 1125 to 1131, 1133, 1168, 1173 and 1284 so far as necessary for the purposes of the provisions brought into force on 20th January 2007	20th January 2007	S.I. 2006/3428, C. 132
Sections 546, 558, 1060 and 1061, 1121 to 1123, 1125 to 1135, 1138 to 1140, 1168, 1173 and 1284 so far as necessary for the purposes of the provisions brought into force on 6th April 2007	6th April 2007	S.I. 2006/3428, C. 132 S.I. 2007/1093, C. 49
Sections 17, 385, 540(1) and (4), 545, 546, 548, 629, 1121, 1122, 1125, 1127 to 1133, 1158, 1168, 1173 and 1284 so far as necessary for the purposes of the provisions brought into force on 1st October 2007	1st October 2007	S.I. 2007/2194, C. 84
Sections 546, 1158, 1173 and 1284 so far as necessary for the purposes of the provisions brought into force on 1st November 2007	1st November 2007	S.I. 2007/2194, C. 84
Sections 1168 and 1284 so far as necessary for the purposes of the provisions brought into force on 15th December 2007	15th December 2007	S.I. 2007/2194, C. 84
Section 1284 so far as necessary for the	1st October 2008	S.I. 2007/2194, C. 84

purposes of the provisions brought into
force on 1st October 2008

The provisions of the Companies Act 2006, so far as not brought into force by section 1300(1) of that Act, or by articles 2 and 3(1) and (2) of the Companies Act 2006 (Commencement No. 1, Transitional Provisions and Savings) Order 2006 (S.I. 2006/3428 (C. 132)), for the purpose of enabling the exercise of powers to make orders or regulations by statutory instrument	20th January 2007	S.I. 2006/3428, C. 132
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The Companies Act 2006 (Commencement No. 5, Transitional Provisions and Savings) Order 2007