

2008 No. 1886 (C. 83)

COMPANIES

The Companies Act 2006 (Commencement No. 7, Transitional Provisions and Savings) Order 2008

Made - - - - - *16th July 2008*

Laid before Parliament *17th July 2008*

Coming into force in accordance with article 1(2) and (3)

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

Citation and commencement

1.—(1) This Order may be cited as the Companies Act 2006 (Commencement No. 7, Transitional Provisions and Savings) Order 2008.

(2) Article 8 of this Order comes into force on 11th August 2008.

(3) The other provisions of this Order come into force on 1st October 2008.

Provisions coming into force on 1st October 2008

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

(a) sections 641(1)(a) and (2) to (6) and 642 to 644 (private companies: reduction of share capital supported by solvency statement);

(b) section 654 (treatment of reserve arising from reduction of capital);

(c) the following provisions—

sections 610(2) to (4) (application to share premium account as if it were paid up share capital);

652(1) and (3) (liability of members following reduction of capital);

733(5) and (6) (application to capital redemption reserve as if it were paid up share capital),

so far as relating to a reduction of capital under the provisions mentioned in sub-paragraph (a);

(d) section 1284(1) (extension of Companies Acts to Northern Ireland) so far as necessary for the purposes of the provisions mentioned in sub-paragraphs (a) to (c);

(e) section 1286(1)(a) and (2)(a) (extension to Northern Ireland of Great Britain enactments relating to limited liability partnerships), so far as relating to the application to limited

liability partnerships of the subject matter of Part 15 (accounts and reports), Part 16 (audit) and Part 42 (statutory auditors);

- (f) section 1295 and Schedule 16 (repeals), so far as relating to the repeals of the second sentence of section 141(4) of the Companies Act 1989^(a) and of the second sentence of Article 75(4) of the Companies (No. 2) (Northern Ireland) Order 1990^(b);
- (g) paragraph 11(2) of Schedule 15 (amendment of definition of “regulated market” in section 103(1) of the Financial Services and Markets Act 2000^(c)).

Transitional adaptations

3.—(1) Section 641 of the Companies Act 2006 (ways in which company may reduce its share capital) has effect with the following adaptations.

(2) After subsection (1) insert—

“(1A) Where a company reduces its share capital under subsection (1)(a), the special resolution under this section must make any necessary alterations of the company’s memorandum by reducing the amount of its share capital and of its shares.”.

(3) In subsection (3) for “this section” substitute “subsection (1)(a)”.

(4) In subsection (6) for “the company’s articles” substitute “the company’s memorandum or articles”.

4.—(1) Section 644 of the Companies Act 2006 (reduction of capital supported by solvency statement: registration of resolution and supporting documents) has effect with the following adaptations.

(2) In subsection (1)(b), for “a statement of capital” substitute “a memorandum complying with subsection (2)”.

(3) For subsection (2) substitute—

“(2) The memorandum must show with respect to the company’s share capital as reduced by the resolution—

- (a) the amount of the share capital,
- (b) the number of shares into which it is to be divided, and the amount of each share, and
- (c) the amount (if any) at the date of the registration deemed to be paid up on each share.”.

5.—(1) Section 652 of the Companies Act 2006 (liability of members following reduction of capital) has effect with the following adaptation.

(2) In subsection (1)(a), for “the statement of capital delivered under section 644 or 649” substitute “the memorandum delivered under section 644”.

Interpretation of provisions brought into force

6. Where an expression in a provision brought into force by this Order—

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

(a) 1989 c.40.

(b) S.I. 1990/1504 (N.I. 10).

(c) 2000 c.8; section 103 was substituted by S.I. 2005/1433, Schedule 1, paragraph 11.

(d) 1985 c.6.

(e) S.I. 1986/1032 (N.I. 6).

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

Transitional provisions and savings

7.—(1) Nothing in this Order affects the operation of section 140 of the Companies Act 1985 or Article 150 of the Companies (Northern Ireland) Order 1986 (liability of members on reduced shares) in relation to a reduction of capital under that Act or Order.

(2) Section 654 of the Companies Act 2006 (treatment of reserve arising from reduction of capital) and any order made under that section apply in relation to reserves arising from—

- (a) a reduction of capital under Chapter 4 of Part 5 of the Companies Act 1985 or Chapter 4 of Part 6 of the Companies (Northern Ireland) Order 1986,
- (b) a reduction of capital under the provisions of the Companies Act 2006 mentioned in article 2(a) above, or
- (c) a reduction in the capital of an unlimited company not under those provisions,

irrespective of when the reduction occurred or the reserves arose.

(3) The provisions mentioned in article 2(e) have effect in relation to accounts and the audit of accounts for financial years beginning on or after 1st October 2008.

(4) Save as provided by article 2(e), nothing in this Order affects any provision of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986 as applied by the Limited Liability Partnerships Regulations 2001(a) or the Limited Liability Partnerships Regulations (Northern Ireland) 2004(b) to limited liability partnerships.

Amendment of earlier commencement order

8.—(1) The Companies Act 2006 (Commencement No. 5, Transitional Provisions and Savings Order 2007(c)) is amended as follows.

(2) In paragraph 15 of Schedule 4, after subparagraph (2) add—

“(3) In section 518 (rights of resigning auditor) 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.”.

Gareth Thomas

Parliamentary Under Secretary of State for Trade and Consumer Affairs
Department for Business, Enterprise and Regulatory Reform

16th July 2008

(a) S.I. 2001/1090.
(b) S.R. (NI) 2004 No. 307.
(c) S.I. 2007/3495 (C. 150).

EXPLANATORY NOTE

(This note is not part of the Order)

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

Article 2 brings into force on 1st October 2008—

provisions about the reduction of the share capital of private companies supported by a solvency statement;

a provision about the treatment of reserves arising from the reduction by any means of the capital of any company with a share capital;

provisions about share premium account, liability of members following reduction of capital and capital redemption reserve so far as relating to a reduction of capital supported by a solvency statement;

the extension of the Act to Northern Ireland so far as necessary for the purposes of the above provisions;

the extension to Northern Ireland of enactments about limited liability partnerships (LLPs) previously extending only to Great Britain so far as they relate to the application to LLPs of Parts 15 (accounts and reports), 16 (audit) and 42 (statutory auditors) of the Act;

the repeal of the second sentences of section 141(4) of the Companies Act 1989^(a) and Article 75(4) of the Companies (No. 2) (Northern Ireland) Order 1990, which prevent the restoration to the register of companies dissolved before 16th November 1969 (under the 1989 Act) or 11th March 1971 (under the 1990 Order);

the amendment of the definition of “regulated market” in section 103(1) of the Financial Services and Markets Act 2000.

Articles 3, 4 and 5 make transitional adaptations of the provisions being brought into force by article 2(a) and (b), so that they can be read with provisions of the Companies Act 1985 and the Companies (Northern Ireland) Order 1986 which have not yet been replaced by other provisions of the 2006 Act.

Article 6 provides that if a provision being brought into force by this Order uses an expression defined in a provision of the 1985 Act or the 1986 Order which is still in force, that definition applies until it is repealed and replaced by the corresponding definition in the 2006 Act.

Article 7 makes transitional provisions.

Article 8 amends (on 11th August 2008) the Companies Act 2006 (Commencement No. 5, Transitional Provisions and Savings) Order 2007 by inserting an additional transitional provision about the rights of resigning auditors.

(a) 1989 c.40.

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
Section 44	6th April 2008	S.I. 2007/3495, C. 150
Sections 69 to 74	1st October 2008	S.I. 2007/3495, C. 150
Sections 82 to 85	1st October 2008	S.I. 2007/3495, C. 150
Sections 116 to 119	1st October 2007	S.I. 2007/2194, C. 84
Section 121	6th April 2008	S.I. 2007/3495, C. 150
Section 128	6th April 2008	S.I. 2007/3495, C. 150
Sections 145 to 154	1st October 2007	S.I. 2007/2194, C. 84
Sections 155 to 159	1st October 2008	S.I. 2007/3495, C. 150
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 175 to 177	1st October 2008	S.I. 2007/3495, C. 150
Sections 178 to 181	1st October 2007	S.I. 2007/2194, C. 84
Sections 182 to 187	1st October 2008	S.I. 2007/3495, C. 150
Sections 188 to 239	1st October 2007	S.I. 2007/2194, C. 84
Sections 248 to 269 and Schedule 1	1st October 2007	S.I. 2007/2194, C. 84
Sections 270 to 274	6th April 2008	S.I. 2007/3495, C. 150
Section 280	6th April 2008	S.I. 2007/3495, C. 150
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
Sections 380 to 416	6th April 2008	S.I. 2007/3495, C. 150
Section 417	1st October 2007	S.I. 2007/2194, C. 84
Sections 418 to 462	6th April 2008	S.I. 2007/3495, C. 150
Section 463	20th January 2007	S.I. 2006/3428, C. 132
Section 464 to 484	6th April 2008	S.I. 2007/3495, C. 150
Sections 485 to 488	1st October 2007	S.I. 2007/2194, C. 84
Sections 489 to 539	6th April 2008	S.I. 2007/3495, C. 150

Section 544	6th April 2008	S.I. 2007/3495, C. 150
Sections 738 to 790	6th April 2008	S.I. 2007/3495, C. 150
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 811(4)	6th April 2008	S.I. 2007/3495, C. 150
Section 812	6th April 2008	S.I. 2007/3495, C. 150
Section 813	20th January 2007	S.I. 2006/3428, C. 132
Section 814	6th April 2008	S.I. 2007/3495, C. 150
Sections 815 to 828	20th January 2007	S.I. 2006/3428, C. 132
Sections 829 to 853	6th April 2008	S.I. 2007/3495, C. 150
Sections 895 to 941	6th April 2008	S.I. 2007/3495, C. 150
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
Section 1117 for the purpose of enabling the exercise of powers to make rules	6th April 2008	S.I. 2007/3495, C. 150
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 1126	6th April 2008	S.I. 2007/3495, C. 150
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 1157	1st October 2008	S.I. 2007/3495, C. 150
Sections 1159 and 1160 and Schedule 6 so far as necessary for the purposes of sections 1209 to 1241 and 1245 to 1264 and Schedules 10, 11, 13 and 14	6th April 2008	S.I. 2007/3495, C. 150
Sections 1161 and 1162 and Schedule 7	6th April 2008	S.I. 2007/3495, C. 150
Sections 1164 and 1165	6th April 2008	S.I. 2007/3495, C. 150
Section 1167	30th September 2007	S.I. 2007/2607, C. 101
Section 1169	6th April 2008	S.I. 2007/3495, C. 150
Section 1170	6th April 2007	S.I. 2007/1093, C. 49
Section 1172	6th April 2008	S.I. 2007/3495, C. 150
Section 1173 (partially)	6th April 2008	S.I. 2007/3495, C. 150

Section 1175 (removal of special provisions about accounts and audit of charitable companies) so far as it relates to Part 7 of the Companies Act 1985 and Schedule 9, Part 1	1st April 2008	S.I. 2008/674, C. 26
Sections 1176 to 1179	6th April 2007	S.I. 2006/3428, C. 132
Sections 1209 to 1241 and Schedules 10 and 11	6th April 2008	S.I. 2007/3495, C. 150
Sections 1242 to 1244 and Schedule 12	29th June 2008	S.I. 2007/3495, C. 150
Sections 1245 to 1264 and Schedules 13 and 14	6th April 2008	S.I. 2007/3495, C. 150
Sections 1277 to 1280	1st October 2008	S.I. 2007/3495, C. 150
Section 1281	6th April 2007	S.I. 2006/3428, C. 132
Section 1282	6th April 2008	S.I. 2007/3495, C. 150
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 1284(2) (partially)	1st October 2008	S.I. 2007/3495, C. 150
Section 1295 and Schedule 16 (partially)	1st and 20th January, 6th April and 1st October 2007; 1st and 6th April and 1st October 2008	S.I. 2006/3428, C. 132 S.I. 2007/1093, C. 49 S.I. 2007/2194, C. 84 S.I. 2007/3495, C. 150 S.I. 2008/674, C. 26
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

Sections 17, 540(1) and (4), 545, 546, 548, 629, 1121 to 1123, 1125, 1127 to 1133, 1139, 1140, 1168 and 1173 (partially) so far as necessary for the purposes of the provisions brought into force on 6th April 2008	6th April 2008	S.I. 2007/3495, C. 150
Section 1284 so far as necessary for the purposes of the provisions brought into force on 6th April 2008 except sections 1209 to 1241 and 1245 to 1264 and Schedules 10, 11, 13 and 14	6th April 2008	S.I. 2007/3495, C. 150
Section 1284 so far as necessary for the purposes of the provisions brought into force on 1st October 2008	1st October 2008	S.I. 2007/2194, C. 84 S.I. 2007/3495, C. 150
Sections 1121 to 1123, 1125, 1127 to 1133, 1168 and 1173 (partially) so far as necessary for the purposes of the provisions brought into force on 1st October 2008 except sections 1277 to 1280	1st October 2008	S.I. 2007/3495, C. 150
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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