

## SCHEDULE 2

### Amendments of Part XXIII of the 1986 Order

#### Part I

#### Registration, etc.

#### Registration

3. After Schedule 20 there shall be inserted—

“SCHEDULE 20A

Article 640A

#### **Branch Registration under the Eleventh Company Law Directive (89/666/EEC)**

##### **Duty to Register**

1.—(1) A company shall, within one month of having opened a branch in Northern Ireland, deliver to the registrar for registration a return in the prescribed form containing—

- (a) such particulars about the company as are specified in paragraph 2,
- (b) such particulars about the branch as are specified in paragraph 3, and
- (c) if the company is one to which Article 648AA(1) applies, such particulars in relation to the registration of documents under Schedule 20D(2) as are specified in paragraph 4.

(2) The return shall, except where sub-paragraph (3) applies, be accompanied by the documents specified in paragraph 5 and, if the company is one to which Part I of Schedule 20D applies, the documents specified in paragraph 6.

(3) This sub-paragraph applies where—

- (a) at the time the return is delivered, the company has another branch in the United Kingdom.
- (b) the return contains a statement to the effect that the documents specified in paragraph 5, and, if the company is one to which Part I of Schedule 20D applies, paragraph 6, are included in the material registered in respect of the other branch, and
- (c) the return states where the other branch is registered and what is its registered number.

(4) In sub-paragraph (1), the reference to having opened a branch in Northern Ireland includes a reference to a branch having become situated there on ceasing to be situated elsewhere.

(5) If at the date on which the company opens the branch in Northern Ireland the company is subject to any proceedings referred to in Article 652O(1) (winding up) or 652P(1) (insolvency proceedings etc)(3), the company shall deliver a return under Article 652O(1) or (as the case maybe) 652P(1) within one month of that date.

If on or before that date a person has been appointed to be liquidator of the company and continues in that office at that date, Article 652O(3) and (4) (liquidator to make return within 14 days of appointment) shall have effect as if it required a return to be made under that Article within one month of the date of the branch being opened.

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(1) Article 648AA is inserted into the 1986 Order by paragraph 15 of Schedule 2

(2) Schedule 20D is inserted into the 1986 Order by paragraph 17 of Schedule 2

(3) Articles 652O and 652P are inserted into the 1986 Order by paragraph 18 of Schedule 2

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### **Particulars required**

- 2.—(1) The particulars referred to in paragraph 1(1)(a) are—
- (a) the corporate name of the company,
  - (b) its legal form,
  - (c) if it is registered in the country of its incorporation, the identity of the register in which it is registered and the number with which it is so registered,
  - (d) a list of its directors and secretary, containing—
    - (i) with respect to each director, the particulars specified in sub-paragraph (3), and
    - (ii) with respect to the secretary (or where there are joint secretaries, with respect to each of them) the particulars specified in sub-paragraph (4).
  - (e) the extent of the powers of the directors to represent the company in dealings with third parties and in legal proceedings, together with a statement as to whether they may act alone or must act jointly and, if jointly, the name of any other person concerned, and
  - (f) whether the company is an institution to which Article 648A (or the equivalent provision in Great Britain) applies.
- (2) In the case of a company which is not incorporated in a Member State, those particulars also include—
- (a) the law under which the company is incorporated.
  - (b) (in the case of a company to which either paragraphs 2 and 3 of Part I of Schedule 20C or Schedule 20D applies) the period for which the company is required by the law under which it is incorporated to prepare accounts, together with the period allowed for the preparation and public disclosure of accounts for such a period, and
  - (c) unless disclosed by the documents specified in paragraph 5—
    - (i) the address of its principal place of business in its country of incorporation,
    - (ii) its objects, and
    - (iii) the amount of its issued share capital.
- (3) The particulars referred to in sub-paragraph (1)(d)(i) are—
- (a) in the case of an individual—
    - (i) his name,
    - (ii) any former name,
    - (iii) his usual residential address,
    - (iv) his nationality,
    - (v) his business occupation (if any),
    - (vi) particulars of any other directorships held by him, and
    - (vii) his date of birth;
  - (b) in the case of a corporation or Scottish firm, its corporate or firm name and registered or principal office.
- (4) The particulars referred to in sub-paragraph (1)(d)(ii) are—
- (a) in the case of an individual, his name, any former name and his usual residential address;
  - (b) in the case of a corporation or Scottish firm, its corporate or firm name and registered or principal office.

Where all the partners in a firm are joint secretaries of the company, the name and principal office of the firm may be stated instead of the particulars required by head (a).

- (5) In sub-paragraphs 3(a) and 4(a)—
- (a) “name” means a person’s forename and surname, except that in the case of a peer, or an individual usually known by a title, the title may be stated instead of his forename and surname, or in addition to either or both of them; and
  - (b) the reference to a former name does not include—
    - (i) in the case of a peer, or an individual normally known by a title, the name by which he was known previous to the adoption of or succession to the title;
    - (ii) in the case of any person, a former name which was changed or disused before he attained the age of 18 years or which has been changed or disused for 20 years or more;
    - (iii) in the case of a married woman, the name by which she was known previous to the marriage.
- (6) Where—
- (a) at the time a return is delivered under paragraph 1(1) the company has another branch in Northern Ireland; and
  - (b) the company has delivered the particulars required by sub-paragraphs (1)(b) to (f) and (2) to (5) to the registrar with respect to that branch (or to the extent it is required to do so by virtue of Schedule 20B to this Order) and has no outstanding obligation to make a return to the registrar in respect of that branch under paragraph 7 in relation to any alteration to those particulars,

the company may adopt the particulars so delivered as particulars which the registrar is to treat as having been filed by the return by referring in the return to the fact that the particulars have been filed in respect of that other branch and giving the number with which the other branch is registered.

3. The particulars referred to in paragraph 1(1)(b) are—
- (a) the address of the branch,
  - (b) the date on which it was opened,
  - (c) the business carried on at it,
  - (d) if different from the name of the company, the name in which that business is carried on,
  - (e) a list of the names and addresses of all persons resident in Northern Ireland authorised to accept on the company’s behalf service of process in respect of the business of the branch and of any notices required to be served on the company in respect of the business of the branch.
  - (f) a list of the names and usual residential addresses of all persons authorised to represent the company as permanent representatives of the company for the business of the branch.
  - (g) the extent of the authority of any person falling within sub-paragraph (f), including whether that person is authorised to act alone or jointly, and
  - (h) if a person falling within sub-paragraph (f) is not authorised to act alone, the name of any person with whom he is authorised to act.
4. The particulars referred to in paragraph 1(1)(c) are—
- (a) whether it is intended to register documents under paragraph 2(2) or, as the case may be, 10(1) of Schedule 20D in respect of the branch or in respect of some other branch in the United Kingdom, and
  - (b) if it is, where that other branch is registered and what is its registered number.

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### **Documents required**

5. The first documents referred to in paragraph 1(2) are—
- (a) a certified copy of the charter, statutes or memorandum and articles of the company (or other instrument constituting or defining the company’s constitution), and
  - (b) if any of the documents mentioned in sub-paragraph (a) is not written in the English language, a translation of it into English certified in the prescribed manner to be a correct translation.
- 6.—(1) The second documents referred to in paragraph 1(2) are—
- (a) copies of the latest accounting documents prepared in relation to a financial period of the company to have been publicly disclosed in accordance with the law of the country in which it is incorporated before the end of the period allowed for compliance with paragraph 1 in respect of the branch or, if earlier, the date on which the company complies with paragraph 1 in respect of the branch, and
  - (b) if any of the documents mentioned in head (a) is not written in the English language, a translation of it into English certified in the prescribed manner to be a correct translation.
- (2) In sub-paragraph (1)(a) “financial period” and “accounting documents” shall be construed in accordance with paragraph 6 of Schedule 20D.

### **Alterations**

- 7.—(1) If, after a company has delivered a return under paragraph (1), any alteration is made in —
- (a) its charter, statutes or memorandum and articles (or other instrument constituting or defining its constitution), or
  - (b) any of the particulars referred to in paragraph 1(1).
- the company shall, within the time specified in sub-paragraph (2), deliver to the registrar for registration a return in the prescribed form containing the prescribed particulars of the alteration.
- In the case of an alteration to any of the documents referred to in head (a), the return shall be accompanied by a certified copy of the document as altered, together with, if the document is not written in the English language, a translation of it into English certified in the prescribed manner to be a correct translation.
- (2) The time for the delivery of the return required by sub-paragraph (1) is—
- (a) in the case of an alteration in any of the particulars specified in paragraph 3, 21 days after the alteration is made; or
  - (b) in the case of any other alteration, 21 days after the date on which notice of the alteration in question could have been received in Northern Ireland in due course of post (if despatched with due diligence).
- (3) Where—
- (a) a company has more than one branch in Northern Ireland, and
  - (b) an alteration relates to more than one of those branches,
- sub-paragraph (1) shall have effect to require the company to deliver a return in respect of each of the branches to which the alteration relates.
- (4) For the purposes of sub-paragraph (3)—

- (a) an alteration in any of the particulars specified in paragraph 2 shall be treated as relating to every branch of the company (though where the company has more than one branch in Northern Ireland a return in respect of an alteration in any of those particulars which gives the branch numbers of two or more such branches shall be treated as a return in respect of each branch whose number is given), but
- (b) an alteration in the company's charter or memorandum and articles (or other instrument constituting or defining its constitution) shall only be treated as relating to a branch if the document altered is included in the material registered in respect of it.

8.—(1) Sub-paragraph (2) applies where—

- (a) a company's return under paragraph 1(1) includes a statement to the effect mentioned in paragraph 1(3)(b), and
- (b) the statement ceases to be true so far as concerns the documents specified in paragraph 5.

(2) The company shall, within the time specified in sub-paragraph (3), deliver to the registrar for registration in respect of the branch to which the return relates—

- (a) the documents specified in paragraph 5, or
- (b) a return in the prescribed form—
  - (i) containing a statement to the effect that those documents are included in the material which is registered in respect of another branch of the company in the United Kingdom, and
  - (ii) stating where the other branch is registered and what is its registered number.

(3) The time for complying with sub-paragraph (2) is 21 days after the date on which notice of the fact that the statement in the earlier return has ceased to be true could have been received in Northern Ireland in due course of post (if despatched with due diligence).

(4) Sub-paragraph (2) shall also apply where, after a company has made a return under sub-paragraph (2)(b), the statement to the effect mentioned in sub-paragraph (2)(b)(i) ceases to be true.

(5) For the purposes of sub-paragraph (2)(b), where the company has more than one branch in Northern Ireland a return which gives the branch numbers of two or more such branches shall be treated as a return in respect of each branch whose number is given.”.