

## 1995 No. 128

## COMPANIES

**Companies (1986 Order) (Audit Exemption) Regulations  
(Northern Ireland) 1995**

*Made* . . . . . 27th March 1995

*Coming into operation* . . . . . 1st May 1995

The Department of Economic Development, in exercise of the powers conferred on it by Article 265(1) and (3) of the Companies (Northern Ireland) Order 1986(a) and of every other power enabling it in that behalf, hereby makes the following Regulations:

*Citation, commencement and interpretation*

1.—(1) These Regulations may be cited as the Companies (1986 Order) (Audit Exemption) Regulations (Northern Ireland) 1995 and shall come into operation on 1st May 1995.

(2) In these Regulations “the 1986 Order” means the Companies (Northern Ireland) Order 1986.

*Audit exemption for certain categories of small companies*

2. After Article 257(b) of the 1986 Order there shall be inserted the following Articles—

*“Exemptions from audit for certain categories of small company**Exemptions from audit*

**257A.**—(1) Subject to Article 257B, a company which meets the total exemption conditions set out below in respect of a financial year is exempt from the provisions of this Part relating to the audit of accounts in respect of that year.

(2) Subject to Article 257B, a company which meets the report conditions set out below in respect of a financial year is exempt from the provisions of this Part relating to the audit of accounts in respect of that year if the directors cause a report in respect of the company’s individual accounts for that year to be prepared in accordance with Article 257C and made to the company’s members.

(3) The total exemption conditions are met by a company in respect of a financial year if—

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(a) S.I. 1986/1032 (N.I. 6); Article 265 was inserted into the 1986 Order by Article 22 of the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5)) in place of an existing Article of that number  
 (b) Article 257 was inserted into the 1986 Order by Article 15 of the Companies (Northern Ireland) Order 1990 in place of an existing Article of that number

- (a) it qualifies as a small company in relation to that year for the purposes of Article 254,
  - (b) its turnover in that year is not more than £90,000, and
  - (c) its balance sheet total for that year is not more than £1.4 million.
- (4) The report conditions are met by a company in respect of a financial year if—
- (a) it qualifies as a small company in relation to that year for the purposes of Article 254,
  - (b) its turnover in that year is more than £90,000 but not more than £350,000, and
  - (c) its balance sheet total for that year is not more than £1.4 million.
- (5) In relation to any company which is a charity—
- (a) paragraph (3)(b) shall have effect with the substitution for the reference to turnover of a reference to gross income, and
  - (b) paragraph (4)(b) shall have effect with the substitution—
    - (i) for the reference to turnover of a reference to gross income, and
    - (ii) for the reference to £350,000 of a reference to £250,000.
- (6) For a period which is a company's financial year but not in fact a year the maximum figures for turnover or gross income shall be proportionately adjusted.
- (7) In this Article—
- “balance sheet total” has the meaning given by Article 255(5), and
  - “gross income” means the company's income from all sources, as shown in the company's income and expenditure account.

*Cases where exemptions not available*

**257B.**—(1) A company is not entitled to the exemption conferred by paragraph (1) or (2) of Article 257A in respect of a financial year if at any time within that year—

- (a) it was a public company,
  - (b) it was a banking or insurance company,
  - (c) it was enrolled in the list maintained by the Insurance Brokers Registration Council under section 4 of the Insurance Brokers (Registration) Act 1977,
  - (d) it was an authorised person or an appointed representative under the Financial Services Act 1986,
  - (e) it was an employers' association as defined in Article 4 of the Industrial Relations (Northern Ireland) Order 1992,
  - (f) it was a parent company or a subsidiary undertaking.
- (2) Any member or members holding not less in the aggregate than 10 per cent in nominal value of the company's issued share capital or any class of it or, if the company does not have a share capital, not less than 10

per cent in number of the members of the company, may, by notice in writing deposited at the registered office of the company during a financial year but not later than one month before the end of that year, require the company to obtain an audit of its accounts for that year.

(3) Where a notice has been deposited under paragraph (2), the company is not entitled to the exemption conferred by paragraph (1) or (2) of Article 257A in respect of the financial year to which the notice relates.

(4) A company is not entitled to the exemption conferred by paragraph (1) or (2) of Article 257A unless its balance sheet contains a statement by the directors—

- (a) that for the year in question the company was entitled to exemption under paragraph (1) or (2) (as the case may be) of Article 257A,
- (b) that no notice has been deposited under paragraph (2) of this Article in relation to its accounts for the financial year, and
- (c) that the directors acknowledge their responsibilities for—
  - (i) ensuring that the company keeps accounting records which comply with Article 229, and
  - (ii) preparing accounts which give a true and fair view of the state of affairs of the company as at the end of the financial year and of its profit or loss for the financial year in accordance with the requirements of Article 234, and which otherwise comply with the requirements of this Order relating to accounts, so far as applicable to the company.

(5) The statement required by paragraph (4) shall appear in the balance sheet immediately above the signature required by Article 241 or, as the case may be, above any statement required by Article 254(1A) or by paragraph 23 of Schedule 8.

*The report required for the purposes of Article 257A(2)*

**257C.**—(1) The report required for the purposes of Article 257A(2) shall be prepared by a person (referred to in this Part as “the reporting accountant”) who is eligible under Article 257D.

(2) The report shall state whether in the opinion of the reporting accountant making it—

- (a) the accounts of the company for the financial year in question are in agreement with the accounting records kept by the company under Article 229, and
- (b) having regard only to, and on the basis of, the information contained in those accounting records, those accounts have been drawn up in a manner consistent with the provisions of this Order specified in paragraph (6), so far as applicable to the company.

(3) The report shall also state that in the opinion of the reporting accountant, having regard only to, and on the basis of, the information contained in the accounting records kept by the company under Article 229, the company satisfied the requirements of paragraph (4) of Article

257A (or, where the company is a charity, of that paragraph as modified by paragraph (5) of that Article) for the financial year in question, and did not fall within Article 257B(1)(a) to (f) at any time within that financial year.

(4) The report shall state the name of the reporting accountant and be signed by him.

(5) Where the reporting accountant is a body corporate or partnership, any reference to signature of the report, or any copy of the report, by the reporting accountant is a reference to signature in the name of the body corporate or partnership by a person authorised to sign on its behalf.

(6) The provisions referred to in paragraph (2)(b) are—

(a) Article 234(3) and Schedule 4,

(b) Article 239 and paragraphs 7 to 9A and 13(1), (3) and (4) of Schedule 5, and

(c) Article 240 and Schedule 6,

where appropriate as modified by Article 254(1)(a) and (1A) and Section A of Part I of Schedule 8.

*The reporting accountant*

**257D.**—(1) The reporting accountant shall be either—

(a) any member of a body listed in paragraph (4) who, under the rules of the body—

(i) is entitled to engage in public practice, and

(ii) is not ineligible for appointment as a reporting accountant, or

(b) any person (whether or not a member of any such body) who—

(i) is subject to the rules of any such body in seeking appointment or acting as auditor under Chapter V of Part XII, and

(ii) under those rules, is eligible for appointment as auditor under that Chapter.

(2) In paragraph (1), references to the rules of a body listed in paragraph (4) are to the rules (whether or not laid down by the body itself) which the body has power to enforce and which are relevant for the purposes of Part III of the Companies (Northern Ireland) Order 1990 or this Article.

This includes rules relating to the admission and expulsion of members of the body, so far as relevant for the purposes of that Part or this Article.

(3) An individual, a body corporate or a partnership may be appointed as a reporting accountant, and Article 29 of the Companies (Northern Ireland) Order 1990 (effect of appointment of partnership) shall apply to the appointment as reporting accountant of a partnership constituted under the law of England and Wales or Northern Ireland, or under the law of any other country or territory in which a partnership is not a legal person.

(4) The bodies referred to in paragraphs (1) and (2) are—

- (a) the Institute of Chartered Accountants in England and Wales,
- (b) the Institute of Chartered Accountants of Scotland,
- (c) the Institute of Chartered Accountants in Ireland,
- (d) the Chartered Association of Certified Accountants, and
- (e) the Association of Authorised Public Accountants.

(5) A person is ineligible for appointment by a company as a reporting accountant if he would be ineligible for appointment as an auditor of that company under Article 30 of the Companies (Northern Ireland) Order 1990 (ineligibility on ground of lack of independence).

#### *Effect of exemptions*

**257E.**—(1) Where the directors of a company have taken advantage of the exemption conferred by Article 257A(1)—

- (a) Articles 246 and 247 (right to receive or demand copies of accounts and reports) shall have effect with the omission of references to the auditors' report;
- (b) no copy of an auditors' report need be delivered to the registrar or laid before the company in general meeting;
- (c) paragraphs (3) to (5) of Article 279 (accounts by reference to which distribution to be justified) shall not apply.

(2) Where the directors of a company have taken advantage of the exemption conferred by Article 257A(2)—

- (a) paragraphs (2) to (4) of Article 244 (which require copies of the auditors' report to state the names of the auditors) shall have effect with the substitution for references to the auditors and the auditors' report of references to the reporting accountant and the report made for the purposes of Article 257A(2) respectively;
- (b) Articles 246 and 247 (right to receive or demand copies of accounts and reports), Article 249 (accounts and reports to be laid before company in general meeting) and Article 250 (accounts and reports to be delivered to the registrar) shall have effect with the substitution for references to the auditors' report of references to the report made for the purposes of Article 257A(2);
- (c) paragraphs (3) to (5) of Article 279 (accounts by reference to which distribution to be justified) shall not apply;
- (d) Article 397A(1) and (2) (rights to information) shall have effect with the substitution for references to the auditors of references to the reporting accountant."

#### *Exemption from requirement to appoint auditors*

**3.**—(1) For Article 396A(a) of the 1986 Order there shall be substituted the following Article—

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(a) Article 396A was inserted into the 1986 Order by Article 54 of the Companies (No. 2) (Northern Ireland) Order 1990, S.I. 1990/1504 (N.I. 10)

*“Certain companies exempt from obligation to appoint auditors*

**396A.**—(1) A company which by virtue of Article 257A (certain categories of small company) or Article 258 (dormant companies) is exempt from the provisions of Part VIII relating to the audit of accounts is also exempt from the obligation to appoint auditors.

(2) The following provisions apply if a company which has been exempt from those provisions ceases to be so exempt.

(3) Where Article 393 applies (appointment at general meeting at which accounts are laid); the directors may appoint auditors at any time before the next meeting of the company at which accounts are to be laid; and auditors so appointed shall hold office until the conclusion of that meeting.

(4) Where Article 393A applies (appointment by private company not obliged to lay accounts), the directors may appoint auditors at any time before—

(a) the end of the period of 28 days beginning with the day on which copies of the company’s annual accounts are next sent to members under Article 246, or

(b) if notice is given under Article 261(2) requiring the laying of the accounts before the company in general meeting, the beginning of that meeting;

and auditors so appointed shall hold office until the end of that period or, as the case may be, the conclusion of that meeting.

(5) If the directors fail to exercise their powers under paragraph (3) or (4), the powers may be exercised by the company in general meeting.”

*Consequential amendments of the 1986 Order*

4. Schedule 1 (which makes consequential amendments of the 1986 Order) shall have effect.

*Consequential amendments of Companies (Revision of Defective Accounts and Report) Regulations (Northern Ireland) 1991*

5. The Companies (Revision of Defective Accounts and Report) Regulations (Northern Ireland) 1991(a) shall be amended in accordance with Schedule 2.

*Application and transitional provisions*

6.—(1) Subject to paragraphs (2) to (4), the provisions of these Regulations shall apply to any annual accounts of a company which are approved by the board of directors on or after the day on which these Regulations come into operation (“the commencement date”).

(2) The provisions of these Regulations do not apply to any annual accounts the period for laying and delivering of which expired before the commencement date.

(3) Where—

- (a) the accounts for a financial year which has ended have not been approved by the board of directors before the commencement date, or
- (b) the financial year to which any accounts relate ends less than one month after the commencement date,

any member or members holding not less in the aggregate than 10 per cent in nominal value of the company's issued share capital or any class of it or, if the company does not have a share capital, not less than 10 per cent in number of the members of the company, may by notice in writing deposited at the registered office of the company before the end of the period of one month beginning with the commencement date require that the company obtains an audit of its accounts for the financial year in question.

(4) Where a notice is deposited under paragraph (3), the company shall not be exempt from the provisions of Part VIII of the 1986 Order relating to the audit of accounts in respect of the financial year to which the notice relates.

Sealed with the Official Seal of the Department of Economic Development on 27th March 1995.

(L.S.)

*A. L. Brown*

Assistant Secretary

**Consequential Amendments of Companies (Northern Ireland) Order 1986**

1.—(1) Article 248 of the 1986 Order(a) (requirements in connection with publication of accounts) shall be amended as follows.

(2) At the end of paragraph (1) there shall be added the words “or, as the case may be, the relevant report made for the purposes of Article 257A(2)”.

(3) In paragraph (3)—

(a) in sub-paragraph (c), after the word “year” there shall be inserted the words “and, if no such report has been made, whether the company’s reporting accountant has made a report for the purposes of Article 257A(2) on the statutory accounts for any such financial year”,

(b) in sub-paragraph (d), before the word “report” there shall be inserted the word “auditors’ ” and at the end of that sub-paragraph there shall be added the words “or whether any report made for the purposes of Article 257A(2) was qualified”, and

(c) at the end of the paragraph there shall be added the words “or any report made for the purposes of Article 257A(2)”.

2. In Article 253 of the 1986 Order(b) (voluntary revision of annual accounts or directors’ report), in paragraph (4)(b), after the words “the company’s auditors” there shall be inserted the words “or reporting accountant”.

3. In Article 270A of the 1986 Order(c) (index of defined expressions), the following entry shall be inserted at the appropriate place—

“reporting accountant Article 257C(1)”.

4. In Article 392(1) of the 1986 Order(d) (duty to appoint auditors) for the words “dormant company” there shall be substituted the words “certain companies”.

5. In Schedule 8 to the 1986 Order(e), after paragraph 25 there shall be inserted the following paragraph—

“*Other companies exempt from audit*

**25A.** Paragraph 24 does not apply where the company is exempt by virtue of Article 257A (certain categories of small companies) from the obligation to appoint auditors.”.

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- (a) Article 248 was inserted into the 1986 Order by Article 12 of the Companies (Northern Ireland) Order 1990 in place of an existing Article of that number
- (b) Article 253 was inserted into the 1986 Order by Article 14 of the Companies (Northern Ireland) Order 1990 in place of an existing Article of that number
- (c) Article 270A was inserted into the 1986 Order by Article 24 of the Companies (Northern Ireland) Order 1990 and was amended by regulation 6 of and paragraph 3 of Schedule 2 to S.R. 1992 No. 258 and by regulation 5 of and paragraph 5 of Schedule 2 to S.R. 1994 No. 428
- (d) Article 392 was inserted into the 1986 Order by Article 54 of the Companies (No. 2) (Northern Ireland) Order 1990 in place of an existing Article of that number
- (e) Schedule 8 was substituted by Article 15(2) of and Schedule 6 to the Companies (Northern Ireland) Order 1990 and amended by S.R. 1992 No. 503



**Consequential Amendments of the Companies (Revision of Defective Accounts and Report) Regulations (Northern Ireland) 1991**

1. The Companies (Revision of Defective Accounts and Report) Regulations (Northern Ireland) 1991 shall be amended as follows.

2. The following regulations shall be inserted after regulation 6—

**“6A.—**(1) Subject to paragraph (2), where a company’s reporting accountant has, prior to the preparation of the revised accounts, made a report for the purposes of Article 257A(2) on the original annual accounts, he shall make a further report to the company’s members under this regulation on any revised accounts prepared under Article 253 and Article 257C shall apply *mutatis mutandis*.

(2) The directors of the company may resolve that the further report is to be made by a person who was not the original reporting accountant, but is qualified to act as the reporting accountant of the company.

(3) Paragraphs (2) to (4) of Article 244 shall apply to a report under this regulation as they apply, by virtue of Article 257E(2)(a), to a report made for the purposes of Article 257A(2).

(4) A report under this regulation shall, upon being signed by the reporting accountant, be, as from the date of the signature, the report on the annual accounts of the company for the purposes of Article 257A(2) in place of the report on the original annual accounts.

**6B.—**(1) Where as a result of the revisions to the accounts a company which, in respect of the original accounts, was exempt from audit by virtue of paragraph (1) of Article 257A, becomes a company which is eligible for exemption from audit only by virtue of paragraph (2) of that Article, it shall cause a report to be prepared in accordance with Article 257C in respect of the revised accounts.

(2) Where as a result of the revisions to the accounts, the company is no longer entitled to exemption from audit under Article 257A(1) or (2), the company shall cause an auditors’ report on the revised accounts to be prepared.

(3) The report made in accordance with Article 257C or auditors’ report shall be delivered to the registrar within 28 days after the date of revision of the revised accounts.

(4) Paragraphs (2) to (5) of Article 250 shall apply with respect to a failure to comply with the requirements of this regulation as they apply with respect to a failure to comply with the requirements of paragraph (1) of that Article but as if—

(a) the references in paragraphs (2) and (4) of that Article to “the period allowed for laying and delivering accounts and reports” were references to the period of 28 days referred to in paragraph (3); and

(b) the references in paragraph (5) to “the documents in question” and “this Part” were, respectively, a reference to the documents referred to in paragraph (3) and to the provisions of Part VIII of the Order as applied by these Regulations.”.

3. The following regulation shall be inserted after regulation 14—

“*Companies exempt from audit by virtue of Article 257A of Companies (Northern Ireland) Order 1986*

**14A.**—(1) Where a company is exempt by virtue of Article 257A(1) from the provisions of Part VIII of the Order relating to the audit of accounts, these Regulations shall have effect as if any reference to an auditors’ report, or to the making of such a report, were omitted.

(2) Where a company is exempt by virtue of Article 257A(2) from the provisions of Part VIII of the Order relating to the audit of accounts, regulations 10 to 13 shall have effect as if—

(a) references to the auditors’ report on any accounts were references to the report made for the purposes of Article 257A(2) in respect of those accounts, and

(b) references to the auditors’ report on a revised directors’ report were omitted.”.

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### EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

1. These Regulations amend the provisions of Part VIII of the Companies (Northern Ireland) Order 1986 (accounts and audit) by inserting new Articles 257A to 257E into that Part (regulation 2).

2. The new provisions exempt small companies which satisfy specified conditions from the obligation to have their annual accounts audited (Article 257A). Slightly different criteria apply to small companies which are charities (Article 257A(5)). Article 257B sets out the cases where the exemptions are not available.

3. In certain circumstances the audit report is to be replaced by a report to be made by a suitably qualified person (defined as a “reporting accountant”) (Articles 257C and 257D).

4. Article 257E sets out the effect of the exemption from the audit requirement on other provisions of the 1986 Order.

5. Regulation 3 substitutes a new Article 396A which provides that a company exempt from the audit requirements is also exempt from the obligation to appoint auditors, and gives power to the directors to appoint auditors if that exemption ceases.

6. Regulation 4 and Schedule 1 make consequential amendments to the 1986 Order. Regulation 5 and Schedule 2 make consequential amendments to the Companies (Revision of Defective Accounts and Report) Regulations (Northern Ireland) 1991.

7. Regulation 6 determines the application of the regulations and contains transitional provisions.