

Status: Point in time view as at 14/08/2002.

Changes to legislation: There are currently no known outstanding effects for the Companies Act 1989, SCHEDULE 7. (See end of Document for details)

SCHEDULES

SCHEDULE 7

Section 18(3) and (4).

SPECIAL PROVISIONS FOR BANKING AND INSURANCE COMPANIES AND GROUPS

Preliminary

Schedule 9 to the ^{M1}Companies Act 1985 is amended in accordance with this Schedule, as follows—

- (a) for the heading of the Schedule substitute “ SPECIAL PROVISIONS FOR BANKING AND INSURANCE COMPANIES AND GROUPS ”;
- (b) omit the introductory paragraph preceding Part I, together with its heading;
- (c) make the present provisions of Parts I to V of the Schedule (as amended by Part I of this Schedule) Part I of the Schedule, and accordingly—
 - (i) for the descriptive Part heading before paragraph 2 substitute “ FORM AND CONTENT OF ACCOUNTS ”, and
 - (ii) omit the Part headings before paragraphs 19, 27, 31 and 32;
- (d) the provisions of Parts II, III and IV of this Schedule have effect as Parts II, III and IV of Schedule 9 to the Companies Act 1985.

Marginal Citations

M1 1985 c. 6.

PART I

FORM AND CONTENT OF ACCOUNTS

- 1 In paragraph 10(1)(c) of Schedule 9 to the ^{M2}Companies Act 1985 (disclosure of outstanding loans in connection with certain cases of financial assistance for purchase of company’s own shares), after “153(4)(b)” insert “ , (bb) ”.

Marginal Citations

M2 1985 c. 6.

- 2 In paragraph 13 of that Schedule (information supplementing balance sheet), omit sub-paragraph (3) (information as to acquisition of, or creation of lien or charge over, company’s own shares).

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3 In paragraph 17(5) of that Schedule (statement of turnover: companies exempt from requirement) for “neither a holding company nor a subsidiary of another body corporate” substitute “neither a parent company nor a subsidiary undertaking”.

4 After paragraph 18 of that Schedule insert—

Supplementary provisions

“18A (1) Accounting policies shall be applied consistently within the same accounts and from one financial year to the next.

(2) If it appears to the directors of a company that there are special reasons for departing from the principle stated in sub-paragraph (1) in preparing the company’s accounts in respect of any financial year, they may do so; but particulars of the departure, the reasons for it and its effect shall be given in a note to the accounts.

“18B It shall be stated whether the accounts have been prepared in accordance with applicable accounting standards, and particulars of any material departure from those standards and the reasons for it shall be given.

“18C (1) In respect of every item shown in the balance sheet or profit and loss account, or stated in a note to the accounts, there shall be shown or stated the corresponding amount for the financial year immediately preceding that to which the accounts relate, subject to sub-paragraph (3).

(2) Where the corresponding amount is not comparable, it shall be adjusted and particulars of the adjustment and the reasons for it shall be given in a note to the accounts.

(3) Sub-paragraph (1) does not apply in relation to an amount shown—

- (a) as an amount the source or application of which is required by paragraph 8 above (reserves and provisions),
- (b) in pursuance of paragraph 13(10) above (acquisitions and disposals of fixed assets),
- (c) by virtue of paragraph 13 of Schedule 4A (details of accounting treatment of acquisitions),
- (d) by virtue of paragraph 2, 8(3), 16, 21(1)(d), 22(4) or (5), 24(3) or (4) or 27(3) or (4) of Schedule 5 (shareholdings in other undertakings), or
- (e) by virtue of Part II or III of Schedule 6 (loans and other dealings in favour of directors and others).”.

5 (1) Before paragraph 19 of that Schedule insert the heading “*Provisions where company is parent company or subsidiary undertaking*”; and that paragraph is amended as follows.

(2) In sub-paragraph (1) for the words from “is a holding company” onwards substitute “is a parent company”.

(3) In sub-paragraph (2)—

- (a) for “subsidiaries” (four times) substitute “subsidiary undertakings”, and

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- (b) in paragraph (a), for “Part I” substitute “ paragraphs 5, 6, 10, 13 and 14 ”.
- (4) Omit sub-paragraphs (3) to (7).
- 6 For paragraph 20 of that Schedule substitute—
- “20 (1) This paragraph applies where the company is a subsidiary undertaking.
- (2) The balance sheet of the company shall show—
- (a) the aggregate amount of its indebtedness to undertakings of which it is a subsidiary undertaking or which are fellow subsidiary undertakings, and
- (b) the aggregate amount of the indebtedness of all such undertakings to it,
- distinguishing in each case between indebtedness in respect of debentures and otherwise.
- (3) The balance sheet shall also show the aggregate amount of assets consisting of shares in fellow subsidiary undertakings.”.
- 7 Omit paragraphs 21 to 26 of that Schedule.
- 8 (1) Before paragraph 27 of that Schedule insert the heading “ *Exceptions for certain companies* ”; and that paragraph is amended as follows.
- (2) In sub-paragraph (2)—
- (a) for “Part I of this Schedule” substitute “ paragraphs 2 to 18 of this Schedule ”, and
- (b) in paragraph (b) for the words from “paragraphs 15” to the end substitute “ and paragraph 15 ”.
- (3) In sub-paragraph (4), omit “of the said Part I”.
- 9 In paragraph 28 of that Schedule, in sub-paragraph (1) (twice) and in sub-paragraph (2) for “Part I” substitute “ paragraphs 2 to 18 ”.
- 10 After that paragraph insert—
- “28A Where a company is entitled to, and has availed itself of, any of the provisions of paragraph 27 or 28 of this Schedule, section 235(2) only requires the auditors to state whether in their opinion the accounts have been properly prepared in accordance with this Act.”.
- 11 Omit paragraphs 29 to 31 of that Schedule.

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- 12 Before paragraph 32 of that Schedule insert the heading “ *Interpretation* ”; and in sub-paragraphs (1) and (2) of that paragraph for “this Schedule” substitute “ this Part of this Schedule ”.
- 13 In paragraph 36 of that Schedule for “this Schedule” substitute “ this Part of this Schedule ”.

PART II

[PART II OF SCHEDULE 9 TO THE COMPANIES ACT 1985]

ACCOUNTS OF BANKING OR INSURANCE GROUP

Undertakings to be included in consolidation

- 1 The following descriptions of undertaking shall not be excluded from consolidation under section 229(4) (exclusion of undertakings whose activities are different from those of the undertakings consolidated)—
- (a) in the case of a banking group, an undertaking (other than a credit institution) whose activities are a direct extension of or ancillary to banking business;
 - (b) in the case of an insurance group, an undertaking (other than one carrying on insurance business) whose activities are a direct extension of or ancillary to insurance business.

For the purposes of paragraph (a) “banking” means the carrying on of a deposit-taking business within the meaning of the ^{M3}Banking Act 1987.

Marginal Citations

M3 1987 c. 22.

General application of provisions applicable to individual accounts

- 2 (1) In paragraph 1 of Schedule 4A (application to group accounts of provisions applicable to individual accounts), the reference in sub-paragraph (1) to the provisions of Schedule 4 shall be construed as a reference to the provisions of Part I of this Schedule; and accordingly—
- (a) the reference in sub-paragraph (2) to paragraph 59 of Schedule 4 shall be construed as a reference to paragraphs 19(2) and 20 of Part I of this Schedule; and
 - (b) sub-paragraph (3) shall be omitted.
- (2) The general application of the provisions of Part I of this Schedule in place of those of Schedule 4 is subject to the following provisions.

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Treatment of goodwill

- 3 (1) The rules in paragraph 21 of Schedule 4 relating to the treatment of goodwill, and the rules in paragraphs 17 to 19 of that Schedule (valuation of fixed assets) so far as they relate to goodwill, apply for the purpose of dealing with any goodwill arising on consolidation.
- (2) Goodwill shall be shown as a separate item in the balance sheet under an appropriate heading; and this applies notwithstanding anything in paragraph 10(1)(b) or (2) of Part I of this Schedule (under which goodwill, patents and trade marks may be stated in the company's individual accounts as a single item).

Minority interests and associated undertakings

- 4 The information required by paragraphs 17 and 20 to 22 of Schedule 4A (minority interests and associated undertakings) to be shown under separate items in the formats set out in Part I of Schedule 4 shall be shown separately in the balance sheet and profit and loss account under appropriate headings.

Companies entitled to benefit of exemptions

- 5 (1) Where a banking or insurance company is entitled to the exemptions conferred by paragraph 27 or 28 of Part I of this Schedule, a group headed by that company is similarly entitled.
- (2) Paragraphs 27(4), 28(2) and 28A (accounts not to be taken to be other than true and fair; duty of auditors) apply accordingly where advantage is taken of those exemptions in relation to group accounts.

Information as to undertaking in which shares held as result of financial assistance operation

- 6 (1) The following provisions apply where the parent company of a banking group has a subsidiary undertaking which—
- (a) is a credit institution of which shares are held as a result of a financial assistance operation with a view to its reorganisation or rescue, and
 - (b) is excluded from consolidation under section 229(3)(c) (interest held with a view to resale).
- (2) Information as to the nature and terms of the operation shall be given in a note to the group accounts and there shall be appended to the copy of the group accounts delivered to the registrar in accordance with section 242 a copy of the undertaking's latest individual accounts and, if it is a parent undertaking, its latest group accounts.
- If the accounts appended are required by law to be audited, a copy of the auditors' report shall also be appended.
- (3) If any document required to be appended is in a language other than English, the directors shall annex to the copy of that document delivered a translation of it into English, certified in the prescribed manner to be a correct translation.

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- (4) The above requirements are subject to the following qualifications—
- (a) an undertaking is not required to prepare for the purposes of this paragraph accounts which would not otherwise be prepared, and if no accounts satisfying the above requirements are prepared none need be appended;
 - (b) the accounts of an undertaking need not be appended if they would not otherwise be required to be published, or made available for public inspection, anywhere in the world, but in that case the reason for not appending the accounts shall be stated in a note to the consolidated accounts.
- (5) Where a copy of an undertaking's accounts is required to be appended to the copy of the group accounts delivered to the registrar, that fact shall be stated in a note to the group accounts.
- (6) Subsections (2) to (4) of section 242 (penalties, &c. in case of default) apply in relation to the requirements of this paragraph as regards the delivery of documents to the registrar as they apply in relation to the requirements of subsection (1) of that section.

PART III

[PART III OF SCHEDULE 9 TO THE COMPANIES ACT 1985]

ADDITIONAL DISCLOSURE: RELATED UNDERTAKINGS

- 1 Where accounts are prepared in accordance with the special provisions of this Part relating to banking companies or groups, there shall be disregarded for the purposes of—
- (a) paragraphs 7(2)(a), 23(2)(a) and 26(2)(a) of Schedule 5 (information about significant holdings in undertakings other than subsidiary undertakings: definition of 10 per cent. holding), and
 - (b) paragraphs 9(1), 25(1) and 28(1) of that Schedule (additional information in case of 20 per cent. holding),
- any holding of shares not comprised in the equity share capital of the undertaking in question.

PART IV

[PART IV OF SCHEDULE 9 TO THE COMPANIES ACT 1985]

ADDITIONAL DISCLOSURE: EMOLUMENTS AND OTHER BENEFITS OF DIRECTORS AND OTHERS

- 1 The provisions of this Part of this Schedule have effect with respect to the application of Schedule 6 (additional disclosure: emoluments and other benefits of directors and others) to a banking company or the holding company of such a company.

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Loans, quasi-loans and other dealings

- 2 Part II of Schedule 6 (loans, quasi-loans and other dealings) does not apply for the purposes of accounts prepared by a banking company, or a company which is the holding company of a banking company, in relation to a transaction or arrangement of a kind mentioned in section 330, or an agreement to enter into such a transaction or arrangement, to which that banking company is a party.

Other transactions, arrangements and agreements

- 3 (1) Part III of Schedule 6 (other transactions, arrangements and agreements) applies for the purposes of accounts prepared by a banking company, or a company which is the holding company of a banking company, only in relation to a transaction, arrangement or agreement made by that banking company for—
- (a) a person who was a director of the company preparing the accounts, or who was connected with such a director, or
 - (b) a person who was a chief executive or manager (within the meaning of the ^{M4}Banking Act 1987) of that company or its holding company.
- (2) References in that Part to officers of the company shall be construed accordingly as including references to such persons.
- (3) In this paragraph “director” includes a shadow director.
- (4) For the purposes of that Part as it applies by virtue of this paragraph, a company which a person does not control shall not be treated as connected with him.
- (5) Section 346 of this Act applies for the purposes of this paragraph as regards the interpretation of references to a person being connected with a director or controlling a company.

Marginal Citations

M4 1987 c. 22.

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