

2004 No. 16

COMPANIES

The Companies Act 1985 (Accounts of Small and Medium-Sized Enterprises and Audit Exemption) (Amendment) Regulations 2004

<i>Made</i> - - - - -	<i>9th January 2004</i>
<i>Laid</i> - - - - -	<i>9th January 2004</i>
<i>Coming into force</i> - -	<i>30th January 2004</i>

The Secretary of State, in exercise of the powers conferred on her by section 257 of the Companies Act 1985(a), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Companies Act 1985 (Accounts of Small and Medium-Sized Enterprises and Audit Exemption) (Amendment) Regulations 2004.

(2) These Regulations shall come into force on 30th January 2004 (the “commencement date”).

(3) In these Regulations “the 1985 Act” means the Companies Act 1985.

Accounts of small and medium-sized companies

2.—(1) The table in section 247(3) of the 1985 Act (qualification of company as small or medium-sized)(b) is amended as follows.

(2) Under the heading “*Small company*”—

- (a) for “Not more than £2.8 million” (turnover) substitute “Not more than £5.6 million”; and
- (b) for “Not more than £1.4 million” (balance sheet total) substitute “Not more than £2.8 million”.

(3) Under the heading “*Medium-sized company*”—

- (a) for “Not more than £11.2 million” (turnover) substitute “Not more than £22.8 million”; and
- (b) for “Not more than £5.6 million” (balance sheet total) substitute “Not more than £11.4 million”.

(a) 1985 c. 6; section 257 was substituted by section 20 of the Companies Act 1989 (c. 40).

(b) Section 247 was substituted by section 13(1) of the Companies Act 1989, and subsection (3) was amended by regulation 5 of S.I. 1992/2452.

Accounts of small and medium-sized groups

3.—(1) The table in section 249(3) of the 1985 Act (qualification of group as small or medium-sized)(a) is amended as follows.

- (2) Under the heading “*Small group*”—
 - (a) for “Not more than £2.8 million net (or £3.36 million gross)” (aggregate turnover) substitute “Not more than £5.6 million net (or £6.72 million gross)”; and
 - (b) for “Not more than £1.4 million net (or £1.68 million gross)” (aggregate balance sheet total) substitute “Not more than £2.8 million net (or £3.36 million gross)”.
- (3) Under the heading “*Medium-sized group*”—
 - (a) for “Not more than £11.2 million net (or £13.44 million gross)” (aggregate turnover) substitute “Not more than £22.8 million net (or £27.36 million gross)”; and
 - (b) for “Not more than £5.6 million net (or £6.72 million gross)” (aggregate balance sheet total) substitute “Not more than £11.4 million net (or £13.68 million gross)”.

Audit Exemption

4.—(1) Section 249A of the 1985 Act (exemptions from audit for certain categories of small company)(b) is amended as follows.

- (2) In subsections (3)(b) and (3A)(b), for “£1 million” substitute “£5.6 million”.
- (3) In subsection (3)(c), for “£1.4 million” substitute “£2.8 million”.

Cases where exemption from audit not available

5.—(1) Section 249B of the 1985 Act (cases where exemption from audit not available)(c) is amended as follows.

- (2) In subsection (1C)(b), for “not more than £1 million net (or £1.2 million gross)” substitute “not more than £5.6 million net (or £6.72 million gross)”.
- (3) In subsection (1C)(c), for “not more than £1.4 million net (or £1.68 million gross)” substitute “not more than £2.8 million net (or £3.36 million gross)”.

The reporting accountant

6.—(1) Section 249D(3) of the 1985 Act (bodies referred to in the definition of reporting accountant)(d) is amended as follows.

- (2) Omit “and” at the end of paragraph (g).
- (3) After paragraph (h) insert “, and
 - (i) the Institute of Chartered Secretaries and Administrators.””

Transitional provisions

7.—(1) Regulations 2 and 3 shall have effect in relation to financial years ending on or after the commencement date.

(2) For the purposes of determining whether a company or group qualifies, or is treated as qualifying, as small or medium-sized under section 247(e) or 249 of the 1985 Act in relation to a financial year ending on or after the commencement date, the company or group shall be treated as having qualified as small or medium-sized (as the case may be) in any previous financial year in which it would have so qualified, or have been treated as so qualifying, under section 247 or 249 as amended by regulations 2 and 3.

(a) Section 249 was substituted by section 13(3) of the Companies Act 1989 and amended by regulation 6 of S.I. 1992/2452.
(b) Section 249A was inserted by regulation 2 of S.I. 1994/1935, and amended by regulation 2 of S.I. 1997/936 and by regulation 2 of S.I. 2000/1430.
(c) Section 249B was inserted by regulation 2 of S.I. 1994/1935, and subsection (1C) was inserted by regulation 3 of S.I. 1997/936 and amended by regulation 4 of S.I. 2000/1430.
(d) Section 249D was inserted into the 1985 Act by regulation 2 of S.I. 1994/1935, and subsection (3) was amended by regulation 2 of S.I. 1995/589, by regulation 2 of S.I. 1996/3080 and by regulation 4 of S.I. 1997/936.
(e) Section 247 was substituted by section 13(1) of the Companies Act 1989, and subsections (2) and (3) were amended by regulation 5 of S.I. 1992/2452, and the section was otherwise amended in a manner not relevant to these Regulations.

(3) In paragraphs (1) and (2) references to financial years ending on or after the commencement date do not include financial years which only end on or after that date by reason of an exercise of the power conferred by section 225 of the 1985 Act^(a) (alteration of accounting reference date) by the giving of a notice to the registrar on or after the date on which these Regulations are made.

(4) Regulations 4 and 5 shall have effect in relation to financial years ending two months or more after the commencement date.

(5) Regulation 6 shall have effect in relation to financial years ending on or after the commencement date.

9th January 2004

Sainsbury of Turville,
Parliamentary Under Secretary of State for Science and Innovation,
Department of Trade and Industry

^(a) Section 225 was substituted by section 3 of the Companies Act 1989 (c. 40), and amended by regulation 3 of S.I. 1996/189 and by section 248(3) and Schedule 17, paragraphs 3 and 4, of the Enterprise Act 2002 (c. 40).

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations implement Council Directive 2003/38/EC of 13th May 2003 amending Directive 78/660/EEC on the annual accounts of certain types of companies as regards amounts expressed in euro (OJ No. L 120, 15.5.2003, pages 22 to 23). The Regulations take further advantage of existing Member State options on annual accounts and audit exemption in Council Directive 78/660/EEC of 25th July 1978 on the annual accounts of certain types of companies as amended (OJ No. L 222, 14.8.1978, pages 11 to 31) and existing Member State options on consolidated annual accounts in the Seventh Council Directive 83/349/EEC of 13th June 1983 on consolidated accounts as amended (OJ No. L 193, 18.7.1983, pages 1 to 17).

2. Regulations 2 and 3 raise the thresholds contained in sections 247 and 249 of the Companies Act 1985 for the exemptions applicable to small and medium-sized companies and groups. The turnover limit is increased from £2.8 million to £5.6 million for small companies and the balance sheet total is increased from £1.4 million to £2.8 million for small companies. The turnover limit is increased from £11.2 million to £22.8 million for medium-sized companies and the balance sheet total is increased from £5.6 million to £11.4 million for medium-sized companies. The aggregate turnover limit for small groups is increased from £2.8 million net (or £3.36 million gross) to £5.6 million net (or £6.72 million gross) and the aggregate balance sheet total limit for small groups is increased from £1.4 million net (or £1.68 million gross) to £2.8 million net (or £3.36 million gross). The aggregate turnover limit for medium-sized groups is increased from £11.2 million net (or £13.44 million gross) to £22.8 million net (or £27.36 million gross) and the aggregate balance sheet total limit for medium-sized groups is increased from £5.6 million net (or £6.72 million gross) to £11.4 million net (or £13.68 million gross). The thresholds for small and medium-sized companies are also relevant for the purposes of expenditure of small or medium-sized enterprises under sections 47 and 48 of the Capital Allowances Act 2001 (c. 2).

3. Regulation 4 increases the turnover limit in section 249A(3)(b) and balance sheet total in section 249A(3)(c) of the Companies Act 1985 which a small company other than a small charitable company must not exceed in respect of a financial year if it is to be exempt from audit. The turnover limit is increased from £1 million to £5.6 million (for small charitable companies the gross income limit remains at £90,000). The balance sheet total is increased from £1.4 million to £2.8 million.

4. A company which would otherwise be disqualified from claiming exemption from audit under section 249A for a financial year because it was a parent company or subsidiary undertaking for any period in that year, may nevertheless claim the exemption if it is a member of a small group which satisfies the conditions specified in section 249B(1C). Regulation 5 increases the turnover limit for a group to qualify as a small group for the purposes of section 249B(1C) of the Companies Act 1985 from £1 million net (£1.2 million gross) to £5.6 million net (£6.72 million gross) (the limit as it applies for small charitable companies remains unchanged). Regulation 5 increases the aggregate balance sheet total for a group to qualify as a small group for the purposes of section 249B(1C) from £1.4 million net (£1.68 million gross) to £2.8 million net (£3.36 million gross).

5. Regulation 6 further amends section 249D of the Companies Act 1985, as inserted by the Companies Act 1985 (Audit Exemption) Regulations 1994 (S.I. 1994/1935), by adding to the bodies listed in section 249D(3) the Institute of Chartered Secretaries and Administrators. Section 249D specifies those accountants who are entitled to act as reporting accountants for companies which are charities within section 249A(2).

6. Regulation 7 contains transitional provisions. Regulation 7(1) provides for regulations 2 and 3 to have effect in relation to financial years ending on or after the commencement date. Regulation 7(2) makes transitional provision to enable companies to take early advantage of the new thresholds for small and medium-sized companies. Regulation 7(3) provides that references to financial years ending on or after the commencement date in paragraphs (1) and (2) of regulation 7 do not include financial years which only end on or after that date by reason of an exercise of the power conferred by section 225 of the Companies Act 1985 (alteration of accounting reference date) by the giving of a notice to the registrar on or after the date on which

these Regulations are made. Regulation 7(4) provides for regulations 4 and 5 to have effect in relation to financial years ending two months or more after the commencement date. Regulation 7(5) provides for regulation 6 to have effect in relation to financial years ending on or after the commencement date.

7. Regulatory Impact Assessments of these Regulations are available from the Department of Trade and Industry, Corporate Law and Governance Directorate, Bay 4100, 1 Victoria Street, London SW1H 0ET. Copies have been placed in the libraries of both Houses of Parliament. Transposition notes setting out how these Regulations implement Council Directive 2003/38/EC and further implement Council Directive 78/660/EEC and Council Directive 83/349/EEC have been placed in the libraries of both Houses of Parliament and are also available from the above address.

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