

EXPLANATORY MEMORANDUM TO
THE COMPANIES (DEFECTIVE ACCOUNTS AND DIRECTORS' REPORTS)
(AUTHORISED PERSON) AND SUPERVISION OF ACCOUNTS AND REPORTS
(PRESCRIBED BODY) ORDER 2008

2008 No. 623

1. This explanatory memorandum has been prepared by the Department for Business, Enterprise & Regulatory Reform and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Companies (Defective Accounts and Directors' Reports) (Authorised Person) and Supervision of Accounts and Reports (Prescribed Body) Order 2008 replaces the Companies (Defective Accounts) (Authorised Person) Order 2005¹, the Companies (Defective Accounts) (Authorised Person) Order (Northern Ireland) 1991² and the Supervision of Accounts and Reports (Prescribed Body) Order 2007³ to reflect administrative changes at the Financial Reporting Review Panel (FRRP). It changes the description of the body prescribed in these Orders from the FRRP established under the articles of association of The Financial Reporting Review Panel Limited to the FRRP established under the articles of association of the Financial Reporting Council Limited.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 Section 457 of the Companies Act 2006 (the 2006 Act) gives the Secretary of State power to authorise a person to apply to the court for an order requiring the directors of a company to revise their accounts or directors' report. Under a corresponding provision in the Companies Act 1985 (section 245C) and the Companies (Northern Ireland) Order 1986 (Article 253C) the FRRP established under the articles of association of The Financial Reporting Review Panel Limited was authorised for this purpose.

4.2 Section 14 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 gives the Secretary of State power to prescribe a body to keep under review periodic accounts and reports that are produced by issuers of transferable securities and are required to comply with any accounting requirements imposed by rules made under Part 6 of the Financial Services and Markets Act 2000. The FRRP as established under the articles of association of The Financial Reporting Review Panel Limited has been prescribed for that purpose.

¹ SI 2005/699.

² S.R. (NI) 1991 No. 269.

³ SI 2007/2583.

4.3 As of 6 April 2008, the FRRP will not operate as a board of The Financial Reporting Review Panel but will be established and operate under the articles of association of The Financial Reporting Council Limited. This Order takes account of that change of status.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

Policy

7.1 The FRRP is part of the Financial Reporting Council (FRC), the UK's independent regulator responsible for promoting confidence in corporate reporting and governance. It is responsible for considering whether the annual accounts of public companies and large private companies comply with the requirements of company law, including applicable accounting standards. It also keeps under review the periodic accounts and reports of certain other listed issuers.

7.2 Prior to 6 April 2008, the FRRP is a board of The Financial Reporting Review Panel Limited and established under the company's articles of association. On 6 April 2008, the FRRP will be established under the articles of association of the Financial Reporting Council Limited and the FRRP's operations will be undertaken by the new FRRP as a board of the Financial Reporting Council Limited. The same arrangements are in place for the other operating bodies of the FRC. This is part of a series of internal administrative changes at the FRC. The Order is not legally or politically important.

7.3 No public consultation was undertaken and no guidance will be issued. The Order reflects internal changes at the FRC and has no impact on other parties.

8. Impact

8.1 An Impact Assessment has not been prepared for this Order because there is no impact on business. It amends existing legislation to reflect a change in the legal status of a body cited in the legislation.

8.2 This Order has no impact on the public sector.

9. Contact

Valerie Carpenter at the Department for Business, Enterprise & Regulatory Reform, Telephone: 020 7215 0225 or e-mail: Valerie.Carpenter@berr.gsi.gov.uk can answer any queries regarding the instrument.