

TRANSPOSITION NOTE

The table below sets out how the following enactments implement Chapter 10 of 2013/34/EU. Chapter 10 is titled 'Report on Payments to Governments'.

The enactment implementing Chapter 10 is the Reports on Payments to Governments Regulations 2014 (as amended by the Reports on Payments to Governments (Amendment) Regulations 2015), which also makes consequential amendments to the Companies Act 2006 and the Limited Liability Partnership (Application of Companies Act 2006) Regulations 2009, and also applies (with suitable modifications) certain provisions of Part 35 of the Companies Acts 2006 to reports on payments to governments delivered by partnerships or limited partnerships.

Article Chapter 10 - 2013/34/EU	Implementation in the: The Reports on Payments to Government Regulations 2014	Elaboration
<p>Article 41(1) Sets out the definition of 'undertakings active in the extractives industry'</p>	<p>Regulation 2 sets out the definition of 'mining or quarrying undertaking'. This definition use the definition of 'undertakings active in the extractive industry' from the Directive, which refers to economic activities categorised in EC Regulation No.1893/2006. The relevant extracts of this Regulation is replicated in Table 2 in the Schedule to the Regulations.</p>	
<p>Article 41(2) Sets out the definition of 'undertaking activities in the logging of primary forests'</p>	<p>Regulation 2 states that 'logging undertaking' is an undertaking that undertakes the activity set out in Table 1 of the Schedule to the Regulations in primary forests. This activity is categorised in EC Regulation No.1893/2006.</p>	
<p>Article 41(3) Sets out the meaning of government in relation to reporting of any payments.</p>	<p>Regulation 2 sets out the meaning of government. This is copied out from the Directive.</p>	
<p>Article 41(4) Sets out the definitions of 'project'</p>	<p>Regulation 2 sets out the meaning of project. This is copied out from the Directive. Regulation 2(5) explains that if agreements are substantially connected they are to be treated as a single project.</p>	

<p>Article 41(5) States the definition of payment, and lists the activities for which payment is made.</p>	<p>Regulation 2 sets out the meaning of payment as defined in the directive and lists the activities for which payment is made. This regulation also reflects recital (48) in relation to dividends paid to governments.</p>	
<p>Article 42(1) Requires large undertakings and public interest companies in the extractive industries or logging of primary forests report on payments made to governments.</p>	<p>Regulation 4 sets out the duty to prepare a report on payments to governments. 'Large undertaking', 'logging undertaking', 'mining and quarrying undertaking' and 'public interest entity' are defined within regulation 2.</p>	
<p>Article 42(2) States that a subsidiary or parent undertaking governed by the law of another Member State are not obliged to complete a report if payments are included in a consolidated report.</p>	<p>Regulation 6 exempts subsidiaries or parent undertakings included in consolidated reports. Regulation 8 sets out the duty to prepare a consolidated report and regulation 9 sets out the content of the consolidated report.</p>	
<p>Article 43(1) States that payments may not be taken into accounts in the report if it is a single payment or a series of related payments if the payments are below 100,000euros in a financial year.</p>	<p>Regulation 5 deals with the content of the report, and regulation 9 deals with the content of the consolidated report. Regulation 5(3) and (4) and Regulation 9(4) and (5) explain that there is no obligation to report payments below £86,000, if it is a single payment or part of a series of related payments. These regulations state that entities should not artificially split or aggregate payments, projects or activities to avoid payments.</p>	<p>£86,000 is the sterling equivalent of 100,000euros calculated in accordance with Article 43(5) of the Directive.</p>
<p>Article 43(2) Sets out the information to be disclosed in the report by the undertakings</p>	<p>Regulation 5 dealing with the content of the report sets out at 5(1) the disclosure requirements. The list of payments to be disclosed is within regulation 2. The same information is detailed in regulation 9(1) for consolidated reports. Regulations 5(2) and 9(2) enables payments made by undertakings in respect of obligations imposed at entity level</p>	

	to be disclosed at entity level rather than project level.	
Article 43(3) Requires payments in kind to reported in value and where applicable volume. Also requires notes to explain how the value has been determined.	Regulation 5(6) and regulation 9(7) require payments in kind to state value of the payment in kind and where applicable the volume of those payments in kind. The regulation also requires directors to provide notes to explain such payments.	
Article 43(4) Ensures that entities should not avoid payments by re-characterising the activity or payment in some way.	Regulation 5(4) and (5) along with regulation 9(5) and (6) follow the Directive wording on this point.	
Article 43(5) Enables Member States who do not use the euro to convert to national currency.	This Article does not need to be transposed. We have used the article by converting the threshold figures in regulations 5 and 9.	
Article 44(1) Requires large entities or public-interest entities to draw up consolidated reports on payments to governments if required to draw up consolidated financial statements.	Regulation 8 contains the duty for entities covered by Chapter 10 to prepare a consolidated report if they are obliged to prepare consolidated group accounts. The obligation to prepare group accounts is set out in the Companies Act 2006.	The Companies Act 2006 includes the current requirements in relation to the Accounting Directives. Once the UK implements the remainder of this Directive, Articles 22(1) to (6) will be transposed into UK law.
Article 44(2) Exempts parent undertakings of small groups, medium-sized groups and parent undertakings governed by laws of other Member States which is also a subsidiary undertaking if its parent is governed by laws of another Member State.	Regulation 10 exempts the entities defined in Article 44(2) and includes the definitions of small group and medium sized group as set out in Article 3(5) and 3(6) of the Directive.	
Article 44(3) Sets out other conditions where undertakings including public-interest entities can be exempted.	Regulation 11 allows for exemptions from consolidated reports as set out in the Article.	
Article 45(1) Requires the report to be published in accordance with other publication	Regulations 14 and 15 require the report to be delivered to the Registrar of Companies. Requirements of Directive	

<p>requirements laid down in Directive 2009/101/EC</p>	<p>2009/101/EC are set out in the Companies Act 2006 and publication of the information required in that Directive is undertaken by the Registrar. Particular provisions of Part 35 of that Act are applied (with appropriate modifications) by regulations 20A and 20B (as inserted by the Reports on Payments to Governments (Amendment) Regulations 2015) to reports etc delivered to the Registrar under these Regulations by partnerships or limited partnerships. Section 1080(1) of the Companies Act 2006, which requires the Registrar to keep records of the documents delivered to the Registrar under any enactment, will apply to reports under these Regulations.</p>	
<p>Article 45(2) Requires members of the responsible bodies of an undertaking have responsibility for ensuring that the report is drawn up and published in accordance with the directive.</p>	<p>Regulations 4, 8 and 14 place a requirement on directors to prepare a report annually on payments made to governments for each financial year. Regulation 14 places a duty on directors to prepare a report in accordance with regulations 4 and 5 or for consolidated reports regulations 8 and 9.</p>	
<p>Article 46(1) Allows for undertakings that prepare and publish a report in line with third country requirements to be exempt from the requirements of Chapter 10 as the third country report will be considered equivalent.</p>	<p>Regulation 12 provides for an exemption from reporting if the undertaking is subject to equivalent reporting and that payments made by the undertaking are prepared in accordance with equivalent reporting requirements. Regulation 13 also provides for the same exemption in relation to consolidated reports. As regards the obligation in Article 46(1) to publish the report, please see above in relation to Article 45(1).</p>	
<p>Article 46(2)</p>	<p>Transposition not required in</p>	

Empowers to Commission to adopt delegated acts to identify the criteria applied for agreeing equivalent reporting requirements in third countries.	national legislation.	
Article 46(3) Sets out the criteria for considering equivalence	Transposition not required in national legislation.	
Article 47 Empowers the Commission to adopt implementing acts to identify third country reporting requirements.	Transposition not required in national legislation.	
Article 48 Requires the Commission to review the effectiveness of Chapter 10. Review to be completed by 21 July 2018	Transposition not required in national legislation.	Regulation 21 requires a review of the regulations to be completed in 3 years. The aim is to ensure that information from the UK can inform the Commission review required in Article 48 of the Directive.
Final Requirements Transposed to ensure Chapter 10 is implemented effectively		
Article 51 Requires Member States to provide for effective, proportionate and dissuasive penalties.	Regulations 16, 17 and 18 deal with enforcement and penalties for failure to deliver a report. The offences that apply are in line with other requirements of the Companies Act to make information public. Penalties include imprisonment for a term not exceeding two years or a fine or both.	
Article 53 Requires Member States to transpose the Directive by 20 July 2015	The UK will implement Chapter 10 before the end of 2014, the rest of the Directive will be transposed in line with Article 53.	