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STATUTORY INSTRUMENTS

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**2019 No. 217**

**The Takeovers (Amendment) (EU Exit) Regulations 2019**

**Citation and commencement**

1. These Regulations may be cited as the Takeovers (Amendment) (EU Exit) Regulations 2019 and come into force on exit day.

**Amendments to the Companies Act 2006**

2. The Companies Act 2006(1) is amended as follows.
3. In section 943—
  - (a) for subsection (1), substitute—

“(1) The Panel must make rules—
    - (a) giving effect to the general principles in Part 1 of Schedule 1C, and
    - (b) in accordance with Part 2 of that Schedule.”;
  - (b) after subsection (1), insert—

“(1A) Rules must specify the percentage of voting rights that gives a person control of a company for the purposes of this Chapter and how it is to be calculated.”;
  - (c) in subsection (7), for “of the Takeovers Directive” substitute “given by paragraph 20(1) of Schedule 1C”;
  - (d) omit subsection (8).
4. In section 948(2), in subsection (7) omit paragraphs (b) and (c).
5. In section 950(3), omit subsection (1)(b).
6. In section 953, in subsection (9)—
  - (a) in the definition of “offer document”, for “giving effect to Article 6.2 of the Takeovers Directive” substitute “made in accordance with paragraph 12(1) to (3) of Schedule 1C;”;
  - (b) for the definition of “offer document rules”, substitute—

““offer document rules” means rules under section 943(1) designated as rules made in accordance with paragraph 12(4) of Schedule 1C;”;
  - (c) in the definition of “response document”, for “giving effect to Article 9.5 of that Directive” substitute “made in accordance with paragraph 18 of Schedule 1C;”;
  - (d) for the definition of “response document rules”, substitute—

““response document rules” means rules under section 943(1) designated as rules made in accordance with paragraph 18(1) of Schedule 1C;”;

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(1) 2006 c.46.

(2) Section 948(7) was amended by the Financial Services Act 2012 (c. 21) Schedule 18, Part 2, paragraphs 110 and 118.

(3) Section 950 was amended by the Financial Services Act 2012 (c. 21) Schedule 18, Part 2, paragraphs 110 and 119.

- (e) in the definition of “takeover bid”, for “same meaning as in that Directive” substitute “meaning given by paragraph 20(1) of Schedule 1C;”.

7.—(1) Section 966 is amended as follows.

(2) In subsection (1), for “three” substitute “five”.

(3) In subsection (2), before “regulated market” insert “UK”.

(4) For subsection (3) substitute—

“(3) The second condition is that the company’s articles of association do not contain any restrictions on the transfer of shares or, if they do contain any such restrictions, provide that they are not to apply to—

- (a) transfers to the offeror, or at the offeror’s direction to another person, during the offer period, or
- (b) transfers to any person at a time during the offer period when the offeror holds shares amounting to not less than 75% in value of all the voting shares in the company.

(3A) The third condition is that the company’s articles of association—

- (a) do not contain any restrictions on rights to vote at a general meeting of the company, or
- (b) if they do contain any such restrictions, provide that they are not to have effect on rights to vote at a general meeting of the company that—
  - (i) decides whether to take any action which might result in the frustration of the takeover bid, or
  - (ii) is held at a time when the offeror holds shares amounting to not less than 75% in value of all the voting shares in the company,

unless the restrictions are compensated for by specific pecuniary advantages.

(3B) The fourth condition is that the company’s articles of association do not contain any other provision which would be incompatible with the requirements of subsection (3C).

(3C) Those requirements are—

- (a) multiple-vote shares are to carry only one vote each at a general meeting of the company that decides whether to take any action which might result in the frustration of the takeover bid,
- (b) multiple-vote shares are to carry only one vote each at a general meeting of the company which—
  - (i) is the first such meeting to be held after the end of the offer period,
  - (ii) is held at a time when the offeror holds shares amounting to not less than 75% in value of all the voting shares in the company, and
  - (iii) is called at the offeror’s request under section 969 in order to amend the company’s articles of association or to appoint or remove members of the board of directors, and
- (c) at a time during the offer period when the offeror holds shares amounting to not less than 75% in value of all the voting shares in the company, shareholders are not to have any extraordinary rights to appoint or remove members of the board of directors.

(3D) The references in subsections (3A)(b) and (3C)(a) to voting at a general meeting of the company that decides whether to take any action which might result in the frustration

of the takeover bid includes a reference to voting on a written resolution concerned with that question.

(3E) For the purposes of subsections (3A)(b)(i) and (3C)(a), action which might result in the frustration of the takeover bid is any action of that kind specified in rules under section 943(1) made in accordance with paragraphs 17 or 18 of Schedule 1C.

(3F) The references in subsections (3), (3A) and (3C) to voting shares in the company do not include—

- (a) debentures, or
- (b) shares that, under the company's articles of association, do not normally carry rights to vote at its general meetings (for example, shares carrying rights to vote that, under those articles, arise only where specified pecuniary advantages are not provided).

(3G) In subsection (3C), “multiple-vote shares” means shares included in a distinct and separate class and carrying more than one vote each.”.

(5) In subsection (4), for “third” substitute “fifth”.

(6) Omit subsection (6).

**8.** In section 967—

- (a) in subsection (3), for “second and third” substitute “second, third, fourth and fifth”;
- (b) in subsection (4), before “regulated market” insert “UK”;
- (c) in subsection (7), for “second condition” substitute “second, third or fourth condition”.

**9.** In section 968(5) for “giving effect to Article 9 of the Takeovers Directive” substitute “made in accordance with paragraph 17 or 18 of Schedule 1C”.

**10.** In section 970—

- (a) in subsection (1), omit paragraph (b) and the “and” after paragraph (a);
- (b) in subsection (2), omit the words from “and,” to the end.

**11.** In section 971(1)—

- (a) omit the definitions of “offeror” and “takeover bid”;
- (b) at the appropriate place, insert—
  - ““offeror”, in relation to a takeover bid, means the person making the bid;”;
- (c) at the appropriate place, insert—
  - ““takeover bid” has the meaning given by paragraph 20(1) of Schedule 1C;”;
- (d) in the definition of “offer period”, for the words from “giving effect to Article 7.1” to the end substitute “made in accordance with paragraph 13 of Schedule 1C;”;
- (e) omit the definition of “the Takeovers Directive”.

**12.** In section 978(1)(c)(ii), for “an EEA State” substitute “the United Kingdom”.

**13.** In section 980(3)(4), for the words from “that give effect” to the end substitute “made in accordance with paragraph 13 or 14 of Schedule 1C”.

**14.** After Schedule 1B, insert the Schedule 1C set out in the Schedule to these Regulations.

**15.** In Schedule 2(5), in Part 2, in Section (E) (General), omit paragraph 5.

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(4) There is an amending instrument but it is not relevant.

(5) The original Schedule 2 was substituted by a new Schedule 2 containing new Part headings by [S.I. 2009/1208](#).

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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**16.** In Schedule 8(6)—

- (a) in the entry for “company”, after the entry in relation to Part 26, insert—

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“—in Schedule 1C (see Chapter 1 of Part paragraph 21 of Schedule 1C”;  
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- (b) in the entry for “offeror”, before the entry in relation to Chapter 2 of Part 28, insert—

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“—in Schedule 1C (see Chapter 1 of Part paragraph 20(1) of Schedule 1C”;  
28)

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- (c) for the entry for “takeover bid (in Chapter 2 of Part 28)” substitute—

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“takeover bid  
—in section 943 section 943(7)  
—in Schedule 1C paragraph 20(1) of Schedule 1C  
—in section 953 section 953(9)  
—in Chapter 2 of Part 28 section 971(1)”;

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- (d) omit the entry for “the Takeovers Directive”;

- (e) in the entry for “voting rights”, before the entry in relation to Chapter 2 of Part 28, insert—

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“—in Schedule 1C (see Chapter 1 of Part paragraph 20(1) of Schedule 1C”.  
28)

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**Amendments to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008**

**17.** The Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008(7) are amended as follows.

**18.** In Schedule 7, in Part 6, in paragraph 13(6)—

- (a) in the definition of “takeover bid”, for “the Takeovers Directive” substitute “paragraph 20(1) of Schedule 1C to the Companies Act 2006(8)”;
- (b) omit the definition of “the Takeovers Directive”.

**Amendment to the Unregistered Companies Regulations 2009**

**19.** The Unregistered Companies Regulations 2009(9) are amended as follows.

**20.** In Schedule 1, in paragraph 14, at the beginning insert—

“(A1) Schedule 1C to the Companies Act 2006 applies to unregistered companies.”.

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(6) There are amending instruments but they are not relevant.

(7) S.I. 2008/410.

(8) 2006 c.46.

(9) S.I. 2009/2436.

Signed by authority of the Secretary of State for Business, Energy and Industrial Strategy.

*Kelly Tolhurst*  
Minister for Small Business, Consumer and  
Corporate Responsibility  
Department for Business, Energy and Industrial  
Strategy

11th February 2019