

S.I. No. 396/1993 - European Communities (Accounts) Regulations, 1993.

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EUROPEAN COMMUNITIES (ACCOUNTS) REGULATIONS, 1993.

I, RUAIRÍ QUINN, Minister for Enterprise and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving effect to the provisions of Council Directives 90/604/EEC⁽¹⁾ and 90/605/EEC⁽²⁾ of 8 November 1990 and Article 11 of Council Directive 89/666/EEC⁽³⁾ of 21 December 1989 hereby make the following Regulations:

PART I PRELIMINARY AND GENERAL

1 Citation and **1.** (1) These Regulations may be cited as European Communities (Accounts) Regulations, construction. 1993.

(2) These Regulations shall be construed as one with the Companies Acts.

2 Application. **2.** (1) Parts I and II of these Regulations shall come into operation on the 1st day of January 1994.

(2) Part III of these Regulations shall apply to accounts prepared for financial years commencing on or after 1 January 1994.

(3) Part IV of these Regulations shall apply to directors' reports attached to balance sheets for financial years commencing on or after 30 June 1993.

3 **3.** (1) In these Regulations, unless the context otherwise requires—
Interpretation.

"the Companies Acts" means the Companies Act, 1963, and any enactment to be construed as one with that Act;

⁽¹⁾O.J. No. L317, 16-11-1990, pp. 57-59.

⁽²⁾O.J. No. L317, 16-11-1990, pp. 60-62.

⁽³⁾O.J. No. L395, 21-12-1989, pp. 36-39.

"Member State" means a State which is a member of the European Communities;

"partnership" has the same meaning as in the Partnerships Act, 1890;

"limited partnership" means a partnership to which the Limited Partnerships Act 1907, applies;

"the 1992 Group Accounts Regulations" means the European Communities (Companies: Group Accounts), Regulations, 1992;

"the 1986 Act" means the Companies (Amendment) Act, 1986 ;

"undertaking" has the same meaning as in the 1992 Group Accounts Regulations.

(2) In these Regulations, unless the context otherwise requires, a reference to a Part is to a Part of these Regulations, a reference to a Regulation is to a Regulation of these Regulations, a reference to a paragraph is to the paragraph of the Regulation and a reference to a subparagraph is to the subparagraph of the paragraph in which the reference occurs.

PART II IMPLEMENTATION OF COUNCIL DIRECTIVE 90/604/EEC

4 .. 4. Section 8 of the 1986 Act is hereby amended—

(a) in subsection (2) (a), by the substitution, for "£1,250,000", of "£1,500,000".

(b) in subsection (2) (b), by the substitution, for "£2,500,000", of "£3,000,000".

(c) in subsection (3) (a), by the substitution, for "£5,000,000", of "£6,000,000".

(d) in subsection (3) (b), by the substitution, for "£10,000,000", of "£12,000,000".

5 .. 5. (1) The documents to be delivered to the registrar of companies under section 7 or 18 of the 1986 Act or Regulation 39 of the 1992 Group Accounts Regulations or Regulation 20 of these Regulations, as the case may be, may have the money amounts referred to therein expressed in European currency units, in addition to their expression in the currency in which the documents concerned were drawn up.

(2) Where a company avails itself of the option in paragraph (1), the exchange rate used shall be that prevailing on the date of the balance sheet, and that rate shall be disclosed in a note to the accounts.

(3) In this Regulation, "European currency unit" has the meaning assigned to it by Regulation (EEC) No. 3180/78,⁽⁴⁾ as amended by Regulation (EEC) No. 2626/84,⁽⁵⁾ and by Regulation (EEC) No. 1971/89.⁶

PART III IMPLEMENTATION OF COUNCIL DIRECTIVE 90/605/EEC

- 6 ..
- 6.** This Part shall apply to the following undertakings:
- (1) Unlimited companies and partnerships where all the members thereof who do not have a limit on their liability are
- (a) companies limited by shares or by guarantee, or
- (b) bodies not governed by the law of the State but equivalent to those in paragraph (a), or
- (c) any combination of the types of bodies referred to in subparagraphs (a) and (b), and
- (2) Unlimited companies and partnerships where all the members thereof who do not have a limit on their liability are
- (a) (i) unlimited companies or partnerships of the type referred to in paragraph (1) that are governed by the laws of a Member State, or
- (ii) bodies governed by the laws of a Member State that are of a legal form comparable to those referred to in paragraph (i), or
- (4)O.J. No. L379, 30-12-1978, p.1.
- (5)O.J. No. L247, 16-9-1984, p.1.
- (6)O.J. No. L189, 4-7-1989, p.1.
- (b) any combination of the types of bodies referred to in subparagraph (a) and subparagraphs (a) and (b) of paragraph (1).
- 7 ..
- 7.** (1) Subject to these Regulations, the 1986 Act shall apply to an undertaking to which this Part applies as it applies to companies to which that Act applies.

(2) Notwithstanding section 1 (1) of the 1986 Act, the term "company" in that Act shall include an unlimited company to which this Part applies and the term "private company" shall include such unlimited companies that are not public companies.

(3) Subject to these Regulations, the 1986 Act shall be applied to partnerships to which this Part applies as though those partnerships were companies formed and registered under the Companies Acts with any modifications necessary to take account of the fact that such partnerships are unincorporated.

8 .. **8.** (1) Save as otherwise provided, in these Regulations the term "partner" shall not include a limited partner.

(2) The compliance by a limited partner with Regulations 16 (2) (b) and 22 (1) shall not constitute taking part in the management of the partnership business for the purposes of section 6 (1) of the Limited Partnerships Act, 1907.

9 .. **9.** (1) Subject to these Regulations, the 1992 Group Accounts Regulations shall apply to an undertaking to which this Part applies that is a parent undertaking as they apply to the parent undertakings referred to in Regulation 5 (3) of those Regulations.

(2) In the case of a partnership to which this Part applies the partners shall prepare the group accounts referred to in Regulation 5 (1) of the 1992 Group Accounts Regulations and in the case of such partnerships any reference to group accounts prepared by the company shall be construed as a reference to group accounts prepared by the partners.

(3) Subject to these Regulations, the 1992 Group Accounts Regulations shall be applied to partnerships to which this Part applies as though those partnerships were companies formed and registered under the Companies Act with any modifications necessary to take account of the fact that such partnerships are unincorporated.

10 .. **10.** (1) Every balance sheet and profit and loss account of a partnership to which this Part applies shall be approved by the partners and shall be signed on behalf of the partners by two of the partners authorised by the partners to do so.

(2) In the case of a partnership to which this Part applies any reference in the 1986 Act to Section 156 of the Principal Act shall be construed as a reference to paragraph (1).

11 .. **11.** Without prejudice to the generality of Regulation 3 (2) of the 1992 Group Accounts Regulations and save as otherwise provided in these Regulations, any reference in the 1986 Act or in the 1992 Group Accounts Regulations to directors shall, in the case of a partnership to which this Part applies, be construed as a reference to the partners of such partnerships and any duties, obligations or discretion imposed on or granted to such directors shall be deemed to be imposed on or granted to such partners.

12 Annual Accounts of Partnerships. **12.** (1) In the case of a partnership to which this Part applies, the partners shall, at some date not later than 18 months after the appropriate date and subsequently once at least in every calendar year, so however that not more than 15 months shall elapse between the preparation of the account, draw up a profit and loss account for the period, in the case of the first account, since the formation of the partnership, and in any other case, since the preceding account.

(2) The partners shall cause to be made out in every calendar year a balance sheet as at the date to which the profit and loss account is made up.

(3) In the case of such partnerships the reference in section 3 of the 1986 Act to balance sheets and profit and loss accounts shall be construed as a reference to balance sheet and profit and loss accounts drawn up pursuant to this Regulation.

(4) For the purposes of this Regulation the "appropriate date" shall be;

(i) in the case of the partnership formed before the commencement of these Regulations, the date referred to in Regulation 2 (2), and

(ii) in the case of a partnership formed after the commencement of these Regulations, the date of the formation of the partnership.

13 .. **13.** (1) Subject to paragraphs (3) to (6), the provisions of sections 10, 12 (1) and 18 of the 1986 Act applicable to a company qualified to be treated as a small company shall apply mutatis mutandis to a partnership to which this Part applies in respect of any financial year of the partnership if, in respect of that year and the financial year of the partnership immediately preceding that year, the partnership satisfies at least two of the conditions specified in subsection (2) of section 8 of the 1986 Act, as amended by Regulations 4.

(2) Subject to paragraphs (3) to (6), the provisions of sections 11, 12 (2) and 18 of the 1986 Act applicable to a company qualified to be treated as a medium sized company shall apply mutatis mutandis to any partnership to which this Part applies in respect of any financial year of the partnership if, in respect of that year and the financial year of the partnership immediately preceding that year, the partnership satisfies at least two of the conditions specified in subsection (3) of section 8 of the 1986 Act, as amended by Regulation 4.

(3) Subject to paragraph (4), in determining whether a partnership to which this Part applies is qualified to be treated in the same manner as a small company or a medium sized company subsections (4) to (12) of section 8 and section 9 of the 1986 Act shall apply.