Draft Regulations laid before Parliament under sections 473(3), 1290 and 1292(4) of the Companies Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No. XXXX

COMPANIES

The Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013

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Laid before Parliament ***

Coming into force - - *1st October 2013*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 416, 468, 473(2) and 1292(1) of the Companies Act 2006(**1**).

In accordance with sections 473(3), 1290 and 1292(4) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

INTRODUCTION

Citation, commencement and application

1.—(1) These Regulations may be cited as the Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013.

(2) Subject to paragraph (3), these Regulations come into force on 1st October 2013.

(3) The following provisions of this instrument come into force on the making of these Regulations for the purposes only of the exercise of the powers to make regulations in the sections amended—

(a) regulation 10;

(b) paragraph 12(b) and (c) of the Schedule.

(4) These Regulations have effect in respect of financial years ending on or after 30th September 2013.

(**1**) 2006 c.46. Section 416(3) was amended by S.I. 2008/393.

PART 2

STRATEGIC REPORT

Duty to prepare strategic report

2. Part 15 (accounts and reports) of the Companies Act 2006 is amended as follows.

3. Before Chapter 5 (directors' report) insert—

"CHAPTER 4A

STRATEGIC REPORT

Duty to prepare strategic report

414A.—(1) The directors of a company must prepare a strategic report for each financial year of the company.

(2) Subsection (1) does not apply if the company is entitled to the small companies exemption.

(3) For a financial year in which—

(a) the company is a parent company, and

(b) the directors of the company prepare group accounts,

the strategic report must be a consolidated report (a "group strategic report") relating to the undertakings included in the consolidation.

(4) A group strategic report may, where appropriate, give greater emphasis to the matters that are significant to the undertakings included in the consolidation, taken as a whole.

(5) In the case of failure to comply with the requirement to prepare a strategic report, an offence is committed by every person who—

(a) was a director of the company immediately before the end of the period for filing accounts and reports for the financial year in question, and

(b) failed to take all reasonable steps for securing compliance with that requirement.

(6) A person guilty of an offence under this section is liable—

(a) on conviction on indictment, to a fine;

(b) on summary conviction, to a fine not exceeding the statutory maximum.

Strategic report: small companies exemption

414B. A company is entitled to small companies exemption in relation to the strategic report for a financial year if—

(a) it is entitled to prepare accounts for the year in accordance with the small companies regime, or

(b) it would be so entitled but for being or having been a member of an ineligible group.

Contents of strategic report

414C.—(1) The purpose of the strategic report is to inform members of the company and help them assess how the directors have performed their duty under section 172 (duty to promote the success of the company).

(2) The strategic report must contain—

(a) a fair review of the company's business, and

(b) a description of the principal risks and uncertainties facing the company.

(3) The review required is a balanced and comprehensive analysis of—

(a) the development and performance of the company's business during the financial year, and

(b) the position of the company's business at the end of that year,

consistent with the size and complexity of the business.

(4) The review must, to the extent necessary for an understanding of the development, performance or position of the company's business, include—

(a) analysis using financial key performance indicators, and

(b) where appropriate, analysis using other key performance indicators, including information relating to environmental matters and employee matters.

(5) In subsection (4), "key performance indicators" means factors by reference to which the development, performance or position of the company's business can be measured effectively.

(6) Where a company qualifies as medium-sized in relation to a financial year (see sections 465 to 467), the review for the year need not comply with the requirements of subsection (4) so far as they relate to non-financial information.

(7) In the case of a quoted company the strategic report must, to the extent necessary for an understanding of the development, performance or position of the company's business, include—

(a) the main trends and factors likely to affect the future development, performance and position of the company's business, and

(b) information about—

(i) environmental matters (including the impact of the company's business on the environment),

(ii) the company's employees, and

(iii) social, community and human rights issues,

including information about any policies of the company in relation to those matters and the effectiveness of those policies.

If the report does not contain information of each kind mentioned in paragraphs (b)(i), (ii) and (iii), it must state which of those kinds of information it does not contain.

(8) In the case of a quoted company the strategic report must include—

(a) a description of the company's strategy,

(b) a description of the company's business model,

(c) a breakdown showing at the end of the financial year—

(i) the number of persons of each sex who were directors of the company;

(ii) the number of persons of each sex who were senior managers of the company (other than persons falling within sub-paragraph (i)); and

(iii) the number of persons of each sex who were employees of the company.

(9) In subsection (8), "senior manager" means a person who—

(a) has responsibility for planning, directing or controlling the activities of the company, or a strategically significant part of the company, and

(b) is an employee of the company.

(10) In relation to a group strategic report—

(a) the reference to the company in subsection (8)(c)(i) is to the parent company; and

(b) the breakdown required by subsection (8)(c)(ii) must include the number of persons of each sex who were the directors of the undertakings included in the consolidation.

(11) The strategic report may also contain such of the matters otherwise required by regulations made under section 416(4) to be disclosed in the directors' report as the directors consider are of strategic importance to the company.

(12) The report must, where appropriate, include references to, and additional explanations of, amounts included in the company's annual accounts.

(13) Subject to paragraph (10), in relation to a group strategic report this section has effect as if the references to the company were references to the undertakings included in the consolidation.

(14) Nothing in this section requires the disclosure of information about impending developments or matters in the course of negotiation if the disclosure would, in the opinion of the directors, be seriously prejudicial to the interests of the company.

Approval and signing of strategic report

414D.—(1) The strategic report must be approved by the board of directors and signed on behalf of the board by a director or the secretary of the company.

(2) If a strategic report is approved that does not comply with the requirements of this Act, every director of the company who—

(a) knew that it did not comply, or was reckless as to whether it complied, and

(b) failed to take reasonable steps to secure compliance with those requirements or, as the case may be, to prevent the report from being approved,

commits an offence.

(3) A person guilty of an offence under this section is liable—

(a) on conviction on indictment, to a fine;

(b) on summary conviction, to a fine not exceeding the statutory maximum.".

4. In section 415A(2)(**2**) (provisions to which small companies exemption for directors' report is relevant)—

(a) after "dividend)," insert "and", and

(b) omit "section 417 (contents of report: business review), and".

5. Omit section 417 (contents of directors' report: business review).

(**2**) Section 415A was inserted by regulation 6(2) of S.I. 2008/393.

PART 3

DIRECTORS' REPORT

Amendment to section 416 of Companies Act 2006

6.—(1) Section 416 (content of directors' report: general) is amended as follows.

(2) In subsection (1) omit paragraph (b) and the "and" immediately preceding that paragraph.

(3) Omit subsection (2).

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

7.—(1) The Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008(**3**) are amended as follows.

(2) For regulation 10(2) (directors' report: structure of Schedule 7) substitute—

"(2) In Schedule 7—

Part 1 relates to matters of a general nature including political donations and expenditure,

Part 2 relates to the acquisition by a company of its own shares or a charge on them,

Part 3 relates to the employment, training and advancement of disabled persons,

Part 4 relates to the involvement of employees in the affairs, policy and performance of the company,

Part 6 relates to certain disclosures required by publicly traded companies, and

Part 7 relates to disclosures in relation to greenhouse gas emissions.".

(3) In Schedule 7 (matters to be dealt with in directors' report)—

(a) after paragraph 1 insert—

"**1A.** Where a company has chosen in accordance with section 414C(11) to set out in the company's strategic report information required by this Schedule to be contained in the directors' report it shall state in the directors' report that it has done so and in respect of which information it has done so.";

(b) omit paragraphs 2 (asset values) and 5 (charitable donations);

(c) in paragraph 8 (company acquiring own shares), in the opening words of that paragraph, before "company" insert "public";

(d) omit paragraph 12 (policy and practice on payment of creditors); and

(e) after paragraph 14 insert—

"PART 7

DISCLOSURES CONCERNING GREENHOUSE GAS EMISSIONS

15.—(1) This Part of this Schedule applies to the directors' report for a financial year if the company is a quoted company.

(**3**) S.I. 2008/410.