STATUTORY RULES OF NORTHERN IRELAND

# 1996 No. 179

# COMPANIES

## Companies (Summary Financial Statement) Regulations (Northern Ireland) 1996

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| *Made - - - -* | *30th April 1996* |
| *Coming into operation* | *10th June 1996* |

The Department of Economic Development, in exercise of the powers conferred on it by Articles 253(3) and (4)(**1**) and 259(1), (2) and (3)(**2**) of the Companies (Northern Ireland) Order 1986(**3**) and of every other power enabling it in that behalf, hereby makes the following Regulations:

## Part I

### General

**Citation and commencement**

**1.** These Regulations may be cited as the Companies (Summary Financial Statement) Regulations (Northern Ireland) 1996 and shall come into operation on 10th June 1996.

**Interpretation**

**2.** In these Regulations—

"the 1986 Order" means the Companies (Northern Ireland) Order 1986;

"banking company" means a company the directors of which prepare accounts for a financial year in accordance with the special provisions of Part VIII of the 1986 Order relating to banking companies;

"EEA State" means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993 and by EEA Council Decision Number 1/95 of 10th March 1995(**4**);

(**1**) Article 253 was substituted by Articles 3 and 14 of the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5))
(**2**) Article 259 was substituted by Articles 3 and 17 of the Companies (Northern Ireland) Order 1990, and was amended by S.R. 1993 No. 220
(**3**) S.I. 1986/1032 (N.I. 6)
(**4**) O.J. No. L86/58 of 20th April 1995

"entitled persons" means the same as in Article 259 of the 1986 Order;

"full accounts and reports" means a company's annual accounts, the directors' report and the auditors' report on those accounts required to be sent to entitled persons under Article 246(1) of the 1986 Order and "full" in relation to any balance sheet, profit and loss account, group accounts or directors' report means any such document comprised in the full accounts and reports;

"insurance company" means a company the directors of which prepare accounts for a financial year in accordance with the special provisions of Part VIII of the 1986 Order relating to insurance companies;

"listed public company" means a public company whose shares or debentures, or any class of whose shares or debentures, are listed within the meaning of Article 259(1) of the 1986 Order.

# Part II

## Conditions for sending out summary financial statement

### Cases in which sending of summary financial statement prohibited

**3.**—(1) A listed public company may not send a summary financial statement to an entitled person instead of copies of its full accounts and reports, in any case where it is prohibited from doing so by any relevant provision (within the meaning of paragraph (2))—

(a) in its memorandum or articles of association, or

(b) where the entitled person is a holder of the company's debentures, in any instrument constituting or otherwise governing any of the company's debentures of which that person is a holder.

(2) For the purposes of paragraph (1), any provision (however expressed) which requires copies of the full accounts and reports to be sent to entitled persons, or which forbids the sending of summary financial statements under Article 259 of the 1986 Order, is a relevant provision.

### Ascertainment of entitled person's wishes

**4.**—(1) A listed public company may not send a summary financial statement to an entitled person in place of copies of its full accounts and reports, unless the company has ascertained that the entitled person does not wish to receive copies of those documents.

(2) Whether or not an entitled person wishes to receive copies of the full accounts and reports for a financial year is to be ascertained—

(a) from any relevant notification in writing he has given to the company (either as an entitled person or as a person to whom paragraph (5) applies) as to whether he wishes to receive copies of the full accounts and reports or as to whether he wishes, instead of copies of those documents, to receive summary financial statements; or

(b) failing any such express notification, from any failure to respond to an opportunity given to the entitled person (including for this purpose a person to whom paragraph (5) applies) to elect to receive copies of the full accounts and reports either in response to a notice sent by the company under regulation 5, or as part of a relevant consultation of his wishes by the company under regulation 6.

(3) For the purposes of paragraph 2(*a*), a notification is a relevant notification with respect to a financial year if it relates to that year (whether or not it has been given at the invitation of the company) and if it received by the company not later than 28 days before the first date on which

copies of the full accounts and reports are sent out to entitled persons in compliance with Article 246(1) of the 1986 Order with respect to the financial year.

(4) A company may not send a summary financial statement to an entitled person in relation to any financial year in place of copies of the full accounts and reports unless—

(a) the period allowed for laying and delivering full accounts and reports under Article 252 of the 1986 Order(**5**) for that year has not expired, and

(b) the summary financial statement has been approved by the board of directors and the original statement signed on behalf of the board by a director of the company.

(5) This paragraph applies to a person who is entitled, whether conditionally or unconditionally, to become an entitled person in relation to the company, but who has not yet become such an entitled person.

**Consultation by notice**

**5.**—(1) A listed public company may give a notice to an entitled person (including for this purpose a person to whom regulation 4(5) applies), by sending it by post or giving it in any other manner authorised by the company's articles, which shall—

(a) state that for the future, so long as he is an entitled person, he will be sent a summary financial statement for each financial year instead of a copy of the company's full accounts and reports, unless he notifies the company in writing that he wishes to receive full accounts and reports,

(b) state that the summary financial statement for a financial year will contain a summary of the company's or group's profit and loss account, balance sheet and directors' report for that year,

(c) state that the printed card or form accompanying the notice in accordance with paragraph (2) must be returned by a date specified in the notice, being a date at least 21 days after service of the notice and not less than 28 days before the first date on which copies of the full accounts and reports for the next financial year for which the entitled person is entitled to receive them are sent out to entitled persons in compliance with Article 246(1) of the 1986 Order,

(d) include a statement in a prominent position to the effect that a summary financial statement will not contain sufficient information to allow as full an understanding of the results and state of affairs of the company or group as would be provided by the full annual accounts and reports and that members and debenture holders requiring more detailed information have the right to obtain, free of charge, a copy of the company's last full accounts and reports, and

(e) state that the summary financial statement will contain a statement by the company's auditors as to whether the summary financial statement is consistent with the full accounts and reports for the year in question, whether it complies with the requirements of Article 259 of the 1986 Order and of these Regulations and whether their report on the accounts was qualified.

(2) Subject to paragraph (3), the notice shall be accompanied by a printed card or form, in respect of which any postage necessary for its return to the company has been, or will be, paid by the company, which is so worded as to enable an entitled person (including a person to whom regulation 4(5) applies), by marking a box and returning the card or form, to notify the company that he wishes to receive full accounts and reports for the next financial year for which he is entitled to receive them as an entitled person and for all future financial years thereafter.

(**5**) Article 252 was substituted by Articles 3 and 13 of the Companies (Northern Ireland) Order 1990

(3) The company need not pay the postage in respect of the return of the printed card or form in the following circumstances—

(a) if the address of a member to which notices are sent in accordance with the company's articles is not within an EEA State,

(b) if the address of a debenture holder to which notices are sent in accordance with the terms of any instrument constituting or otherwise governing the debentures of which he is a holder is not within an EEA State, or

(c) if the address of a person to whom regulation 4(5) applies to which notices are sent, in accordance with the contractual provisions whereunder he has a right (conditionally or unconditionally) to become an entitled person, is not within an EEA State.

**Relevant consultation**

**6.**—(1) A listed public company may conduct a relevant consultation to ascertain the wishes of an entitled person.

(2) For the purposes of this regulation, a relevant consultation of the wishes of an entitled person is a notice given to the entitled person (including for this purpose a person to whom regulation 4(5) applies), by sending it by post or giving it in any other manner authorised by the company's articles, which—

(a) states that for the future, so long as he is an entitled person, he will be sent a summary financial statement instead of the full accounts and reports of the company, unless he notifies the company in writing that he wishes to continue to receive full accounts and reports;

(b) accompanies a copy of the full accounts and reports;

(c) accompanies a copy of a summary financial statement, prepared in accordance with Article 259 of the 1986 Order and these Regulations, with respect to the financial year covered by those full accounts and reports and which is identified in the notice as an example of the document which the entitled person will receive for the future, so long as he is an entitled person, unless he notifies the company to the contrary; and

(d) subject to paragraph (3), is accompanied by a printed card or form, in respect of which any postage necessary for its return to the company has been, or will be, paid by the company, which is so worded as to enable an entitled person (including a person to whom regulation 4(5) applies), by marking a box and returning the card or form, to notify the company that he wishes to receive full accounts and reports for the next financial year for which he is entitled to receive them as an entitled person and for all future financial years thereafter.

(3) Regulation 5(3) applies in respect of the payment of postage for the return of the printed card or form referred to in paragraph (2)(*d*).

# Part III

## Form and content of summary financial statement

**Provisions applying to all companies and groups**

**7.**—(1) Every summary financial statement issued by a listed public company in place of the full accounts and reports must comply with this regulation.

(2) The summary financial statement must state the name of the person who signed it on behalf of the board.

(3) The summary financial statement of a company which is not required to prepare group accounts under Part VIII of the 1986 Order must include a statement in a prominent position to the effect that the summary financial statement does not contain sufficient information to allow as full an understanding of the results and state of affairs of the company as would be provided by the full annual accounts and reports, and that members and debenture holders requiring more detailed information have the right to obtain, free of charge, a copy of the company's last full accounts and reports.

(4) The summary financial statement of a company which is required to prepare group accounts under Part VIII of the 1986 Order must include a statement in a prominent position to the effect that the summary financial statement does not contain sufficient information to allow as full an understanding of the results of the group and state of affairs of the company or of the group as would be provided by the full annual accounts and reports, and that members and debenture holders requiring more detailed information have the right to obtain, free of charge, a copy of the company's last full accounts and reports.

(5) The summary financial statement must contain a clear, conspicuous statement—

(a) of how members and debenture holders can obtain, free of charge, a copy of the company's last full accounts and reports, and

(b) of how members and debenture holders may elect in writing to receive full accounts and reports in place of summary financial statements for all future financial years.

**Companies and groups other than banking and insurance companies and groups**

**8.**—(1) The summary financial statement of a listed public company (other than a banking or insurance company) the directors of which are not required to prepare group accounts under Part VIII of the 1986 Order, shall be in the form, and contain the information, required by Schedule 1, so far as applicable to such a company.

(2) The summary financial statement of a listed public company (other than the parent company of a banking or insurance group) the directors of which are required to prepare group accounts under Part VIII of the 1986 Order, shall be in the form, and contain the information, required by Schedule 1, so far as applicable to such a company.

**Banking companies and groups**

**9.**—(1) The summary financial statement of a listed public company which is in relation to the financial year in question a banking company the directors of which are not required to prepare group accounts under Part VIII of the 1986 Order, shall be in the form, and contain the information, required by Schedule 2 so far as applicable to such a company.

(2) The summary financial statement of a listed public company which is the parent company of a banking group shall be in the form, and contain the information, required by Schedule 2, so far as applicable to such a company.

**Insurance companies and groups**

**10.**—(1) The summary financial statement of a listed public company which is in relation to the financial year in question an insurance company the directors of which are not required to prepare group accounts under Part VIII of the 1986 Order, shall be in the form, and contain the information, required by Schedule 3, so far as applicable to such a company.

(2) The summary financial statement of a listed public company which is the parent company of an insurance group shall be in the form, and contain the information, required by Schedule 3, so far as applicable to such a company.