1993 No. 267

COMPANIES

Companies (Summary Financial Statement) Regulations (Northern Ireland) 1993

Made	*9th June 1993*
Coming into operation . .	*14th July 1993*

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

Citation and commencement

1. These Regulations may be cited as the Companies (Summary Financial Statement) Regulations (Northern Ireland) 1993 and shall come into operation on 14th July 1993.

Interpretation

2. In these Regulations—

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

"entitled person", in relation to a company, means such of the persons specified in Article 246(1)(*a*) to (*c*) of the 1986 Order(**d**) as are or would apart from Article 259 of the 1986 Order be entitled to be sent copies of those documents relating to the company which are referred to in that paragraph;

"full accounts and reports" means a copy of a company's annual accounts, a copy of the directors' report and of the auditors' report of those accounts required to be circulated 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;

"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, and

---

(a) Article 253 was inserted by Articles 3 and 14 of the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5))

(b) Article 259 was inserted by Articles 3 and 17 of the Companies (Northern Ireland) Order 1990. Article 259 was amended by the Companies (1986 Order) (Amendment of Articles 258 and 259) Regulations (Northern Ireland) 1993 (S.R. 1993 No. 220)

(c) S.I. 1986/1032 (N.I. 6) as amended by S.I. 1990/593 (N.I. 5)

(d) Article 246 was inserted by Articles 3 and 12 of the Companies (Northern Ireland) Order 1990

"summary financial statement" means such a statement prepared and sent to entitled persons in accordance with Article 259 of the 1986 Order and these Regulations.

Transitional and Saving Provisions

3.—(1) A listed public company other than one to which regulation 8 applies may, with respect to a financial year of the company commencing on a date prior to 14th July 1993, comply with the Companies (Summary Financial Statement) Regulation (Northern Ireland) 1990(**a**) as though those Regulations had not been revoked by regulation 11.

(2) Paragraph (3) has effect in relation to the ascertainment of the wishes of a member of a company for the purposes of Article 259(2) of the 1986 Order.

(3) So far as anything done under or for the purposes of any provision of the Companies (Summary Financial Statement) Regulations (Northern Ireland) 1990 could have been done under or for the purposes of the corresponding provision of these Regulations, it is not invalidated by the revocation of that provision but has effect as if done under or for the purposes of the corresponding provision.

Cases in which a summary financial statement may be sent

4.—(1) Subject to regulation 5 a listed public company may send a summary financial statement to an entitled person in accordance with Article 259 of the 1986 Order and these Regulations, instead of its full accounts and reports, in any case where it is not prohibited from doing so by any relevant provision (within the meaning of paragraph (2))—

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

(*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.

Conditions that must be complied with

5. A listed public company may not send out a summary financial statement to an entitled person, instead of its full accounts and reports, unless the following conditions have been complied with:

(*a*) the company must have ascertained, in accordance with Article 259(2) of the 1986 Order and regulation 6, that the entitled person does not wish to continue to receive copies of those documents;

(*b*) the period allowed for laying and delivering full accounts and reports under Article 252 of the 1986 Order(**b**) for the financial year must not have expired;

(**a**) S.R. 1990 No. 378

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

(*c*) the summary financial statement must have been approved by the board of directors of the company and the original statement signed on behalf of the board by one of those directors;

(*d*) the summary financial statement must state the name of the person who signed it on behalf of the board of directors;

(*e*) the summary financial statement of a company which is not required to prepare group accounts under Part VIII of the 1986 Order must include the following statement in a prominent position: "This summary financial statement does not contain sufficient information to allow for a full understanding of the results and state of affairs of the company. For further information the full annual accounts, the auditors' report on those accounts and the directors' report should be consulted.";

(*f*) the summary financial statement of a company which is required to prepare group accounts under Part VIII of the 1986 Order must include the following statement in a prominent position: "This summary financial statement does not contain sufficient information to allow for a full understanding of the results of the group and state of affairs of the company or of the group. For further information the full annual accounts, the auditors' report on those accounts and the directors' report should be consulted.";

(*g*) the summary financial statement must contain a conspicuous statement of the right of members and debenture holders, under Article 247 of the 1986 Order(**a**) to be furnished on demand, and without charge, the company's last full accounts and reports; and

(*h*) the summary financial statement must 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 and which is so worded as to enable an entitled person, by marking a box and returning the card or form, to notify the company of either or both of the following—

(i) that he wishes to receive full accounts and reports for the financial year covered by the summary financial statement;

(ii) that he wishes to receive full accounts and reports for future financial years.

The manner in which the wishes of entitled persons are to be ascertained

6.—(1) For the purposes of Article 259(2) of the 1986 Order, whether or not an entitled person wishes to receive 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 (4) applies) as to whether he wishes to receive the full accounts and reports or as to whether he wishes, instead of those documents, to receive summary financial statements; or

(**a**) Article 247 was inserted by Articles 3 and 12 of the Companies (Northern Ireland) Order 1990

(*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 (4) applies) to elect to receive the full accounts and reports as part of a relevant consultation of his wishes by the company.

(2) For the purposes of paragraph (1)(*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 whether before or after the coming into operation of these Regulations) and if it:

(*a*) is received by the company not later than 28 days before the first date on which 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; and

(*b*) has not been impliedly countermanded, where the notification is of a wish to receive full accounts and reports, by a failure by the entitled person concerned to respond to a subsequent relevant consultation of his wishes.

(3) For the purposes of this Regulation, a relevant consultation of the wishes of an entitled person is a notice given to that entitled person (including for this purpose a person to whom paragraph (4) applies) 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 those documents;

(*b*) contains a statement in a prominent position that a failure to respond to the notice has important consequences;

(*c*) accompanies the full accounts and reports;

(*d*) accompanies a copy of a summary financial statement 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

(*e*) 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 paragraph (4) applies), by marking a box and returning the card or form, to notify the company of either or both of the following—

(i) 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 (unless he notifies the company of the matter referred to in head (ii)) summary financial statements thereafter,

(ii) that he wishes to receive full accounts and reports for all future financial years after the next financial year referred to in head (i).

(4) 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.

Forms and content of summary financial statements: Companies and groups other than banking and insurance companies and groups

7.—(1) The summary financial statement of a listed public company the directors of which are not required to prepare group accounts under Part VIII of the 1986 Order, other than a banking or insurance company the directors of which have prepared accounts for the financial year in question in accordance with the special provisions of Part VIII of the 1986 Order relating to banking and insurance companies, 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 the directors of which are required to prepare group accounts under Part VIII of the 1986 Order other than the parent company of a banking of insurance group the directors of which have prepared accounts for the financial year in question in accordance with the special provisions of Part VIII of the 1986 Order relating to banking and insurance groups, shall be in the form, and contain the information, required by Schedule 1, so far as applicable to such a company.

Form and content of summary financial statements: Banking companies and groups

8.—(1) The summary financial statement of a listed public company the directors of which are not required to prepare group accounts under Part VIII of the 1986 Order and who, being entitled or required to do so by reason of the company being a banking company, have prepared accounts for the financial year in question in accordance with the special provisions of Part VIII of the 1986 Order relating to banking companies 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 the directors of which are required to prepare group accounts under Part VIII of the 1986 Order and who, being entitled or required to do so by reason of the company being the parent company of a banking group, have prepared accounts for the financial year in question in accordance with the special provisions of Part VIII of the 1986 Order relating to banking groups shall be in the form, and contain the information, required by Schedule 2, so far as applicable to such a company.

Form and content of summary financial statements: Insurance companies and groups

9.—(1) The summary financial statement of a listed public company the directors of which are not required to prepare group accounts under Part VIII of the 1986 Order and who, being entitled to do so by reason of the company being an insurance company, have prepared accounts for the financial year in question in accordance with the special provisions of Part VIII of the 1986 Order relating to insurance companies 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 the directors of which are required to prepare group accounts under Part VIII of