STATUTORY RULES OF NORTHERN IRELAND

1993 No. 198

COMPANIES

Part XXIII Companies and Credit and Financial Institutions (Branch Disclosure) Regulations (Northern Ireland) 1993

Made - - - -	*19th April 1993*
Coming into operation	*8th June 1993*

The Department of Economic Development being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures—

(i) relating to the publication of documents, particulars and other items relating to a branch opened by a company governed by the law of another Member State of the European Economic Community or of a State which is not such a Member State, and

(ii) relating to credit and financial institutions

in exercise of the powers conferred on it by that section and of every power enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Part XXIII Companies and Credit and Financial Institutions (Branch Disclosure) Regulations (Northern Ireland) 1993 and shall come into operation on 8th June 1993.

(2) In these Regulations, "the 1986 Order" means the Companies (Northern Ireland) Order 1986(**3**) .

(3) The Interpretation Act (Northern Ireland 1954(**4**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Implementation of the Bank Branches Directive

2.—(1) Before Article 649(**5**) of the 1986 Order there shall be inserted—

(**1**) S.I. 1990/1304
(**2**) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.R. 1984 No. 253
(**3**) S.I. 1986/1032 (N.I. 6)
(**4**) 1954 c. 33 (N.I.)
(**5**) Articles 649 to 652 of the 1986 Order were substituted by Article 25 of and paragraph 18 of Schedule 10 to the Companies (Northern Ireland) Order 1990, S.I. 1990/593 (N.I. 5)

"**Credit and financial institutions to which the Bank Branches Directive (89/117/EEC) applies**

648A.—(1) This Article applies to any credit or financial institution—

(a) which is incorporated or otherwise formed outside the United Kingdom and Gibraltar.

(b) whose head office is outside the United Kingdom and Gibraltar, and

(c) which has a branch in Northern Ireland.

(2) Schedule 20C (delivery of accounts and reports) shall have effect in relation to any institution to which this Article applies.

(3) In this Article—

"branch," in relation to a credit or financial institution, means a place of business which forms a legally dependent part of the institution and which conducts directly all or some of the operations inherent in its business;

"credit institution" means a credit institution as defined in Article 1 of the First Council Directive on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions (77/780/EEC), that is to say an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account;

"financial institution" means a financial institution within the meaning of Article 1 of the Council Directive on the obligations of branches established in a Member State of credit and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents (the Bank Branches Directive, 89/117/EEC); and

"undertaking" has the same meaning is in Part VIII.

Scope of Articles 649 to 652

648B. Articles 649 to 652 shall not apply to any institution to which Article 648A applies.".

(2) The Schedule set out in Schedule 1 shall be inserted after Schedule 20B(**6**) to the 1986 Order.

Implementation of the Eleventh Company Law Directive

3.—(1) Part XXIII of the 1986 Order (companies incorporated outside Northern Ireland carrying on business in Northern Ireland) shall have effect subject to the amendments set out in Schedule 2. After Article 654 of that Order there shall be inserted—

"**Registration of branches of Part XXIII companies**

654A.—(1) For each company to which Article 640A(**7**) applies the registrar shall keep, in such form as he thinks fit, a register of the branches registered by the company under paragraph 1 of Schedule 20A.

(2) The registrar shall allocate to every branch registered by him under this Article a number, which shall be known as the branch's registered number.

(3) Branches' registered numbers shall be in such form, consisting of one or more sequences of figures or letters, as the registrar may from time to time determine.

(**6**) Schedule 20B is inserted by regulation 3(1) and paragraph 5 of Schedule 2
(**7**) Article 640A is inserted into the 1986 Order by paragraph 2 of Schedule 2

(4) The registrar may upon adopting a new form of registered number make such changes of existing registered numbers as appear to him necessary.

(5) A change of a branch's registered number has effect from the date on which the company is notified by the registrar of the change; but for a period of three years beginning with the date on which that notification is sent by the registrar the requirement of Article 643(3)(**8**) as to the use of the branch's registered number on business letters and order forms is satisfied by the use of either the old number or the new.

(6) Where a Part XXIII company to which Article 640A applies files particulars, in any circumstances permitted by this Order, by:

(a) adopting particulars already filed in respect of another branch; or

(b) including in one document particulars which are to relate to two or more branches,

the registrar shall ensure that the particulars concerned become part of the registered particulars of each branch concerned.".

Consequential amendments

4. Schedule 3 (consequential amendments) shall have effect.

Transitional provisions

5. Schedule 4 (transitional provisions) shall have effect. Sealed with the Official Seal of the Department of Economic Development on

19th April 1993.

A. L. Brown
Assistant Secretary

(**8**) Inserted by paragraph 6 of Schedule 2

SCHEDULE 1 Regulation 2(2)

Delivery of Reports and Accounts: Credit and Financial Institutions to which the Bank Branches Directive (89/117/EEC) applies

"SCHEDULE 20C Article 648A

Delivery of Reports and Accounts: Credit and Financial Institutions to which The Bank Branches Directive (89/117/EEC) applies

Part I

Institutions required to prepare Accounts under Parent Law

Scope of Part

1.—(1) This Part applies to any institution to which Article 648A applies which is required by its parent law to prepare and have audited accounts for its financial periods and whose only or principal branch within the United Kingdom is in Northern Ireland.

(2) In this Part, "branch" has the meaning given by Article 648A.

Duty to deliver copies in Northern Ireland

2.—(1) An institution to which this Part applies shall, within one month of becoming such an institution, deliver to the registrar for registration—

(a) copies of the latest accounting documents of the institution prepared in accordance with its parent law to have been disclosed before the end of the period allowed for compliance with this paragraph or, if earlier, the date of compliance with it, and

(b) if any of the documents mentioned in head (a) is not written in the English language, a translation of it into English certified in the prescribed manner to be a correct translation.

(2) Where an institution to which this Part applies had, immediately prior to becoming such an institution, a branch in Great Britain which was its only or principal branch within the United Kingdom it may, instead of delivering the documents mentioned in sub-paragraph (1)(a), deliver a notice that it has become an institution to which this Part applies, provided that those documents have been delivered pursuant to the Companies Act 1985(**9**) —

(a) to the registrar for England and Wales if the institution's only or principal branch within the United Kingdom was in England and Wales; or

(b) to the registrar for Scotland if the institution's only or principal branch within the United Kingdom was in Scotland.

3.—(1) An institution to which this Part applies shall deliver to the registrar for registration—

(a) copies of all the accounting documents of the institution prepared in accordance with its parent law which are disclosed on or after the end of the period allowed for compliance with paragraph 2(1) or, if earlier, the date on which it complies with that paragraph, and

(b) if any of the documents mentioned in head (a) is not written in the English language, a translation of it into English, certified in the prescribed manner to be a correct translation.

(**9**) 1985 c. 6

(2) The period allowed for delivery, in relation to a document required to be delivered under this paragraph, is 3 months from the date on which the document is first disclosed.

(4) Where an institution's parent law permits it to discharge an obligation with respect to the disclosure of accounting documents by disclosing documents in a modified form, it may discharge its obligation under paragraph 2 or 3 by delivering copies of documents modified as permitted by that law.

5.—(1) Neither paragraph 2 nor paragraph 3 shall require an institution to deliver documents to the registrar if at the end of the period allowed for compliance with that paragraph—

(a) it is not required by its parent law to register them,

(b) they are made available for inspection at each branch of the institution in Northern Ireland, and

(c) copies of them are available on request at a cost not exceeding the cost of supplying them.

(2) Where by virtue of sub-paragraph (1) an institution is not required to deliver documents under paragraph 2 or 3 and any of the conditions specified in that sub-paragraph ceases to be met, the institution shall deliver the documents to the registrar for registration within 7 days of the condition ceasing to be met.

Penalty for non-compliance

6.—(1) If an institution fails to comply with paragraph 2, 3 or 5(2) before the end of the period allowed for compliance, the institution and every person who immediately before the end of that period was a director of the institution, or in the case of an institution which does not have directors, a person occupying an equivalent office, is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.

(2) It is a defence for a person charged with an offence under this paragraph to prove that he took all reasonable steps for securing compliance with paragraph 2, 3 or 5(2), as the case may be.

Interpretation

7.—(1) In this Part—

"financial period", in relation to an institution means a period for which the institution is required or permitted by its parent law to prepare accounts;

"parent law", in relation to an institution, means the law of the country in which the institution has its head office;

and references to disclosure are to public disclosure, except where an institution is not required under its parent law, any statutory provision (within the meaning of section 1(f) of the Interpretation Act (Northern Ireland) 1954) having effect for Northern Ireland or its constitution to disclose publicly its accounts, in which case such references are to the disclosure of the accounts to the persons for whose information they have been prepared.

(2) For the purposes of this Part, the following are accounting documents in relation to a financial period of an institution—

(a) the accounts of the institution of the period, including, if it has one or more subsidiaries, any consolidated accounts of the group,

(b) any annual report of the directors (or, in the case of an institution which does not have directors, the persons occupying equivalent offices) for the period,

(c) the report of the auditors on the accounts mentioned in head (a), and

(d) any report of the auditors on the report mentioned in head (b).