STATUTORY RULES OF NORTHERN IRELAND

1991 No. 398 (C. 18)

COMPANIES

Companies (1990 No. 2 Order) (Commencement No. 4) Order (Northern Ireland) 1991

Made - - - - 23rd August 1991

The Department of Economic Development, in exercise of the powers conferred on it by Article 1 of the Companies (No. 2) (Northern Ireland) Order 1990(**1**) and paragraph 2(1) of Schedule 1 to the Northern Ireland Act 1974(**2**) and of every other power enabling it in that behalf, hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Companies (1990 No. 2 Order) (Commencement No. 4) Order (Northern Ireland) 1991.

(2) In this Order "the 1986 Order" means the Companies (Northern Ireland) Order 1986(**3**) and "the 1990 (No. 2) Order" means the Companies (No. 2) (Northern Ireland) Order 1990.

(3) In Articles 4 to 6 expressions bear the meaning they have in the 1986 Order, unless otherwise stated.

Provisions of the 1990 (No. 2) Order brought into operation by this Order

2. The following provisions of the 1990 (No. 2) Order shall come into operation on 1st October 1991:

(a) Article 74, subject to the transitional and saving provisions set out in Articles 3 and 4;

(b) paragraphs 2 to 7 and 13 of Schedule 5 and Article 78 in so far as it relates to those paragraphs subject, in the case of paragraphs 2 and 6, to the transitional and saving provisions set out in Article 5, and

(c) the repeals effected by Schedule 6 of Schedule 15 and in Schedules 21 (in so far as Schedule 6 to the 1990 (No. 2) Order effects a repeal in the entry relating to Articles 371 to 373) and 23 (in so far as Schedule 6 to the 1990 (No. 2) Order repeals the entries relating to Articles 372(4) and 373(3)) to the 1986 Order together with Article 113 so far as relating

(**1**) S.I. 1990/1504 (N.I. 10)
(**2**) 1974 c. 28
(**3**) S.I. 1986/1032 (N.I. 6)

to those repeals. These repeals shall come into operation subject to the transitional and saving provisions made by Articles 3 and 4.

Interpretation for Article 4

3. In Article 4:

"the old Chapter III" means the provisions of Chapter III of Part XII of the 1986 Order. together with the entries relating to the provisions of that Chapter in Schedules 21 and 23 to the 1986 Order, prior to their repeal by Articles 74 and 113 (together with Schedule 6) of the 1990 (No. 2) Order;

"the new Chapter III" means new Articles 371 to 373 inserted by Article 74 of the 1990 (No. 2) Order, and

"company" includes any body corporate to which Articles 371 to 373 of the 1986 Order are applied by any statutory provision.

Transitional and saving provisions

4.—(1) Notwithstanding the commencement of Article 74 of the 1990 (No. 2) Order by this Order, the provisions of the old Chapter III shall continue in operation for the purposes of the transitional provisions made by this Article.

(2) A company which holds an annual general meeting on or after 1st October 1991 but before 1st January 1992 may make an annual return for 1991 in accordance with the provisions of the old Chapter III instead of in accordance with the provisions of the new Chapter III.

(3) A company which has held an annual general meeting for 1991 prior to 1st October 1991 but which is not by that date in default with respect to the delivery of its annual return for 1991 may also make an annual return for 1991 in accordance with the provisions of the old Chapter III instead of in accordance with the provisions of the new Chapter III.

(4) A company to which paragraph 2 of the Schedule to the Companies (1990 No. 2 Order) (Commencement No. 1) Order (Northern Ireland) 1991(**4**) applies (a company which elects under Article 374A of the 1986 Order(**5**) not to have an annual general meeting) which is not by 1st October 1991 in default with respect to the delivery of its annual return for 1991 may also make an annual return for 1991 in accordance with the provisions of the old Chapter III instead of in accordance with the provisions of the new Chapter III.

(5) A company able to make a return under paragraphs (2), (3) or (4) under the old Chapter III shall be deemed to have elected to do so upon the delivery of a return for 1991 in the form prescribed for the purposes of Articles 371 and 372 of the 1986 Order by Regulation 4 of, and Schedule 3 to, the Companies (Forms) Regulations (Northern Ireland) 1986(**6**), or upon the expiry of the time within which it would be required to deliver its first return under the new Chapter III in the absence of this Regulation.

(6) Where a company elects, or is treated as having elected under paragraph (5), to make a return in accordance with paragraphs (2), (3) or (4) then:

(a) in connection with that return, Articles 371(7), 372(4) and 373(3) of the old Chapter III shall, without prejudice to the generality of paragraph (1), continue to be applicable to defaults in complying with Articles 371, 372 and 373 respectively of that Chapter;

(b) a return made under the old Chapter III, as continued in operation by this Article, which complies with the formal and substantive provisions of that Chapter (including those in

(**4**) S.R. 1991 No. 26 (C. 2)
(**5**) Article 374A is inserted into the 1986 Order by Article 50(2) of the 1990 (No. 2) Order
(**6**) S.R. 1986 No. 287

Article 373 requiring the return to be completed and forwarded to the registrar within a certain time) shall be treated for the purposes of Article 371 of the new Chapter III, as a return delivered in accordance with the new Chapter III, and

(c) in connection with that return, the amendment made by Article 74(4) of the 1990 (No. 2) Order to Schedule 1 to the Companies (Northern Ireland) Order 1989(**7**) shall be treated as not having been made.

(7) Nothing in the new Chapter III shall be construed as requiring a company to deliver an annual return for 1991 to the registrar under that Chapter if the company would, under Articles 371(3) or 372(2) of the old Chapter III, have been exempt from making an annual return for 1991.

5.—(1) Where in consequence of the coming into operation of paragraph 2 of Schedule 5 to the 1990 (No. 2) Order, a company comes under an obligation to amend the particulars of an existing director or shadow director contained in the register of directors required to be kept under Article 296 of the 1986 Order, then:

(a) the company shall not, for the purposes of Article 296(4) of the 1986 Order, be in default for a failure to make those amendments unless they have not been made by 1st November 1991, and

(b) the company need not notify the registrar under Article 296(2) of the 1986 Order of those amendments when made.

For the purposes of this paragraph, an "existing" director or shadow director is a director or shadow director of the company who was such a director on 30th September 1991 and "company" includes any body corporate to which Article 296 of the 1986 Order is applied by any statutory provision.

(2) Where a Part XXIII company has delivered to the registrar a list of directors and secretary under Article 641 of the 1986 Order prior to 1st October 1991 it shall , by 1st January 1992, make a return under Article 642(1) of the 1986 Order containing the particulars required by Article 641(2)(a)(vii) (as inserted by paragraph 6 of Schedule 5 to the 1990 (No. 2) Order) (the date of birth of each director of the company) and for the purposes of Article 647 of the 1986 Order (penalties for non-compliance) this paragraph shall be treated as a requirement of Article 642 of the 1986 Order.

Amendment of the Companies (1990 No. 2 Order) (Commencement No. 1) Order (Northern Ireland) 1991

6. Paragraph 2(l) of the Schedule to the Companies (1990 No. 2 Order) (Commencement No. 1) Order (Northern Ireland) 1991 shall be amended, with effect from 1st October 1991, by the substitution of the words "at a time when Articles 371 to 373 of the unamended 1986 Order are in operation to any extent" for the words "at a time when Articles 371 to 373 of the amended 1986 Order are not in operation".

(7) S.I. 1989/2404 (N.I. 18)