1990 No. 378

COMPANIES

The Companies (Summary Financial Statement) Regulations (Northern Ireland) 1990

Made . . . . . *17th October 1990*

Coming into operation . . *1st December 1990*

The Department of Economic Development, in exercise of the powers conferred on it by Article 259(1), (2) and (3)(**a**) of the Companies (Northern Ireland) Order 1986(**b**) 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) 1990 and shall come into operation on 1st December 1990.

Interpretation

2. In these Regulations—

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

"the 1990 Order" means the Companies (Northern Ireland) Order 1990(**c**);

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

"full accounts and reports" means a copy of a company's annual accounts, a copy of the directors' report for that financial year and of the auditors' report on those accounts required to be circulated to members of the company under Article 246(1) of the 1986 Order(**d**) 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; and

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

(**a**) Article 259 was inserted into the Companies (Northern Ireland) Order 1986 in place of the existing Article of that number by Articles 3 and 17 of the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5))

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

(**c**) S.I. 1990/593 (N.I. 5)

(**d**) Article 246 was inserted into the 1986 Order in place of the existing Article of that number by Articles 3 and 12 of the 1990 Order

Application

3. Regulations 4 to 9 shall have effect in connection with a summary financial statement of a listed public company for a financial year commencing on or after 1st April 1990, whilst regulation 10 shall have effect for adapting those Regulations for a financial year of such a company commencing prior to that date, that is for a financial year to which the transitional arrangements set out in Article 6 of, and Part II of Schedule 2 to, the Companies (1990 Order) (Commencement No. 1) Order (Northern Ireland) 1990(**a**) are applicable.

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 members of the company instead of its full accounts and reports, in any case where it is not prohibited from doing so by any relevant provision in its memorandum or articles of association.

(2) For the purposes of paragraph (1), any provision (however expressed) in a company's memorandum or articles of association which requires its full accounts and reports to be sent to members, or which forbids the sending of summary financial statements under Article 259 of the 1986 Order, is a relevant provision, save that in the case of a company incorporated prior to 24th September 1986 a provision in its articles of association equivalent to Regulation 129 of Table A of Schedule 1 to the Companies Act (Northern Ireland) 1960(**b**) (whether as originally enacted or as amended by Schedule 6 to the Companies (Northern Ireland) Order 1978(**c**)) is not a relevant provision in the case of a financial year of the company which commences prior to 1st April 1990 in respect of which no accounts have been circulated to members under Article 246(1) of the 1986 Order prior to 1st December 1990.

Conditions that must be complied with

5. A listed public company may not send out a summary financial statement to a member of the company, 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 member 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(**d**) for the financial year must not have expired;

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

(**a**) S.R. 1990 No. 246

(**b**) 1960 c. 22 (N.I.). The Table A regulations contained in the First Schedule to the Companies Act (Northern Ireland) 1960 were replaced by the Table A regulations in the Schedule to the Companies (Tables A to F) Regulations (Northern Ireland) 1986 (S.R. 1986 No. 264)

(**c**) S.I. 1978/1042 (N.I. 12)

(**d**) Article 252 was inserted into the 1986 Order in place of the existing Article of that number by Articles 3 and 13 of the 1990 Order

(*d*) the summary financial statement must state the name of the person who signed the original 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 copies of the full annual accounts, the auditors' report on those accounts and of 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 copies of the full annual accounts, the auditors' report on those accounts and of the directors' report should be consulted.";

(*g*) the summary financial statement of a company must contain a conspicuous statement of the right of members of the company, 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 of a company 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 a member, 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, in reliance on his rights under Article 247 of the 1986 Order;

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

The manner in which the wishes of members are to be ascertained

6.—(1) For the purposes of Article 259(2) of the 1986 Order, whether or not a member 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 as to whether he wishes to continue to receive (or, having previously chosen to receive a summary financial statement, to receive for the future) 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 into the 1986 Order in place of the existing Article of that number by Articles 3 and 12 of the 1990 Order

(*b*) failing any such express notification, from any failure to respond to an opportunity given to the member to elect to receive copies of 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 commencement of these Regulations) and if it:

(*a*) is 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 members 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 member 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 a member is a notice given to the member which:

(*a*) states that for the future 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 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 member will receive for the future 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 a member, 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,

(ii) that he wishes to receive them for all future financial years.

Form 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 or 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 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 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 the 1986 Order and who, being entitled to do so by reason of the company being the parent company of an insurance 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 insurance groups shall be in the form, and contain the information, required by Schedule 3, so far as applicable to such a company.

Requirements relating to financial years commencing prior to 1st April 1990

10.—(1) In this regulation:

"the unamended 1986 Order" means the provisions of the Companies (Northern Ireland) Order 1986 prior to any repeal, re-enactment or amendment of those provisions by the 1990 Order; and