
STATUTORY INSTRUMENTS

1990 No. 1504

The Companies (No. 2) (Northern Ireland) Order 1990

PART IV

OTHER AMENDMENTS OF COMPANY LAW

Miscellaneous

“Subsidiary”, “holding company” and “wholly-owned subsidiary”

62.—(1) In Part I of the Companies Order (introductory and interpretation), for Article 4 substitute—

““Subsidiary”, “holding company” and “wholly-owned subsidiary”

4.—(1) A company is a “subsidiary” of another company, its “holding company”, if that other company—

- (a) holds a majority of the voting rights in it, or
- (b) is a member of it and has the right to appoint or remove a majority of its board of directors, or
- (c) is a member of it and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in it,

or if it is a subsidiary of a company which is itself a subsidiary of that other company.

(2) A company is a “wholly-owned subsidiary” of another company if it has no members except that other and that other’s wholly-owned subsidiaries or persons acting on behalf of that other or its wholly-owned subsidiaries.

(3) In this Article “company” includes any body corporate.

Provisions supplementing Article 4

4A.—(1) The provisions of this Article explain expressions used in Article 4 and otherwise supplement that Article.

(2) In Article 4(1)(a) and (c) the references to the voting rights in a company are to the rights conferred on shareholders in respect of their shares or, in the case of a company not having a share capital, on members, to vote at general meetings of the company on all, or substantially all, matters.

(3) In Article 4(1)(b) the reference to the right to appoint or remove a majority of the board of directors is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all, or substantially all, matters; and for the purposes of that provision—

- (a) a company shall be treated as having the right to appoint to a directorship if—

- (i) a person's appointment to it follows necessarily from his appointment as director of the company, or
 - (ii) the directorship is held by the company itself; and
- (b) a right to appoint or remove which is exercisable only with the consent or concurrence of another person shall be left out of account unless no other person has a right to appoint or, as the case may be, remove in relation to that directorship.
- (4) Rights which are exercisable only in certain circumstances shall be taken into account only—
- (a) when the circumstances have arisen, and for so long as they continue to obtain, or
 - (b) when the circumstances are within the control of the person having the rights;
- and rights which are normally exercisable but are temporarily incapable of exercise shall continue to be taken into account.
- (5) Rights held by a person in a fiduciary capacity shall be treated as not held by him.
- (6) Rights held by a person as nominee for another shall be treated as held by the other; and rights shall be regarded as held as nominee for another if they are exercisable only on his instructions or with his consent or concurrence.
- (7) Rights attached to shares held by way of security shall be treated as held by the person providing the security—
- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with his instructions;
 - (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in his interests.
- (8) Rights shall be treated as held by a company if they are held by any of its subsidiaries; and nothing in paragraph (6) or (7) shall be construed as requiring rights held by a company to be treated as held by any of its subsidiaries.
- (9) For the purposes of paragraph (7) rights shall be treated as being exercisable in accordance with the instructions or in the interests of a company if they are exercisable in accordance with the instructions of or, as the case may be, in the interests of—
- (a) any subsidiary or holding company of that company, or
 - (b) any subsidiary of a holding company of that company.
- (10) The voting rights in a company shall be reduced by any rights held by the company itself.
- (11) References in any provision of paragraphs (5) to (10) to rights held by a person include rights falling to be treated as held by him by virtue of any other provision of those paragraphs but not rights which by virtue of any such provision are to be treated as not held by him.
- (12) In this Article "company" includes any body corporate."

(2) Any reference in any statutory provision to a "subsidiary" or "holding company" within the meaning of Article 4 of the Companies Order shall, subject to any express amendment or saving made by or under this Order, be read as referring to a subsidiary or holding company as defined in Article 4 as substituted by paragraph(1).

This applies whether the reference is specific or general, or express or implied.

- (3) In Part I of the Companies Order (introductory and interpretation) after Article 4A insert—

“Power to amend Articles 4 and 4A

4B.—(1) The Department may by regulations amend Articles 4 and 4A so as to alter the meaning of the expressions “holding company”, “subsidiary” or “wholly-owned subsidiary”.

(2) Any amendment made by regulations under this Article does not apply for the purposes of statutory provisions outside the Companies Orders unless the regulations so provide.

(3) So much of section 29(1) of the Interpretation Act (Northern Ireland) 1954 (effect of repeal and re-enactment) as relates to statutory documents shall not apply in relation to any repeal and re-enactment effected by regulations made under this Article.”.

(4) Schedule 3 contains amendments and savings consequential on the amendments made by this Article; and the Department may by regulations make such further amendments or savings as appear to it to be necessary or expedient.

(5) So much of section 29(1) of the Interpretation Act (Northern Ireland) 1954(1) (effect of repeal and re-enactment) as relates to statutory documents shall not apply in relation to the repeal and re-enactment by this Article of Article 4 of the Companies Order.

Form of articles for partnership company

63. In Chapter I of Part II of the Companies Order (company formation), after Article 19 (Tables A, C, D and E) insert—

“Table G

19A.—(1) The Department may by regulations prescribe a Table G containing articles of association appropriate for a partnership company, that is, a company limited by shares whose shares are intended to be held to a substantial extent by or on behalf of its employees.

(2) A company limited by shares may for its articles adopt the whole or any part of that Table.

(3) If in consequence of regulations under this Article Table G is altered, the alteration does not affect a company registered before the alteration takes effect, or repeal as respects that company any portion of the Table.”.

Membership of holding company

64.—(1) In Chapter I of Part II of the Companies Order (company formation), for Article 33 (membership of holding company) substitute—

“Membership of holding company

33.—(1) Except as mentioned in this Article, a body corporate cannot be a member of a company which is its holding company and any allotment or transfer of shares in a company to its subsidiary is void.

(2) The prohibition does not apply where the subsidiary is concerned only as personal representative or trustee unless, in the latter case, the holding company or a subsidiary of it is beneficially interested under the trust.

For the purpose of ascertaining whether the holding company or a subsidiary is so interested, there shall be disregarded—

- (a) any interest held only by way of security for the purposes of a transaction entered into by the holding company or subsidiary in the ordinary course of a business which includes the lending of money;
- (b) any such interest as is mentioned in Part I of Schedule 2.

(3) The prohibition does not apply where the subsidiary is concerned only as a market maker.

For this purpose a person is a market maker if—

- (a) he holds himself out at all normal times in compliance with the rules of a recognised investment exchange other than an overseas investment exchange (within the meaning of the Financial Services Act 1986) as willing to buy and sell securities at prices specified by him, and
 - (b) he is recognised as so doing by that investment exchange.
- (4) Where a body corporate became a holder of shares in a company—
- (a) before 1st April 1961, or
 - (b) on or after that date and before the coming into operation of Article 64 of the Companies (No. 2) (Northern Ireland) Order 1990, in circumstances in which this Article as it then had effect did not apply,

but at any time after the coming into operation of that Article falls within the prohibition in paragraph (1) in respect of those shares, it may continue to be a member of that company; but for so long as that prohibition would apply, apart from this paragraph, it has no right to vote in respect of those shares at meetings of the company or of any class of its members.

(5) Where a body corporate becomes a holder of shares in a company after the coming into operation of that Article in circumstances in which the prohibition in paragraph (1) does not apply, but subsequently falls within that prohibition in respect of those shares, it may continue to be a member of that company; but for so long as that prohibition would apply, apart from this paragraph, it has no right to vote in respect of those shares at meetings of the company or of any class of its members.

(6) Where a body corporate is permitted to continue as a member of a company by virtue of paragraph (4) or (5), an allotment to it of fully paid shares in the company may be validly made by way of capitalisation of reserves of the company; but for so long as the prohibition in paragraph (1) would apply, apart from paragraph (4) or (5), it has no right to vote in respect of those shares at meetings of the company or of any class of its members.

(7) The provisions of this Article apply to a nominee acting on behalf of a subsidiary as to the subsidiary itself.

(8) In relation to a company other than a company limited by shares, the references in this Article to shares shall be construed as references to the interest of its members as such, whatever the form of that interest.”.

(2) In Schedule 2 to the Companies Order (interpretation of references to “beneficial interest”), in paragraphs 1(1), 3(1) and 4(2) for “as respects Article 33(4)” substitute “as this paragraph applies for the purposes of Article 33(2)”.

Company contracts and execution of documents by companies

65.—(1) In Chapter III of Part II of the Companies Order (a company’s capacity; the formalities of carrying on business), for Article 46 (form of company contracts) substitute—

“Form of company contracts

46. A contract may be made—

- (a) by a company, by writing under its common seal, or
- (b) on behalf of a company, by any person acting under its authority, express or implied;

and any formalities required by law in the case of a contract made by an individual also apply, unless a contrary intention appears, to a contract made by or on behalf of a company.”.

(2) After that Article insert—

“Execution of documents

46A.—(1) The following provisions have effect with respect to the execution of documents by a company.

(2) A document is executed by a company by the affixing of its common seal.

(3) A company need not have a common seal, however, and the following paragraphs apply whether it does or not.

(4) A document signed by a director and the secretary of a company, or by two directors of a company, and expressed (in whatever form of words) to be executed by the company has the same effect as if executed under the common seal of the company.

(5) A document executed by a company which makes it clear on its face that it is intended by the person or persons making it to be a deed has effect, upon delivery, as a deed; and it shall be presumed, unless a contrary intention is proved, to be delivered upon its being so executed.

(6) In favour of a purchaser a document shall be deemed to have been duly executed by a company if it purports to be signed by a director and the secretary of the company, or by two directors of the company, and, where it makes it clear on its face that it is intended by the person or persons making it to be a deed, to have been delivered upon its being executed.

A “purchaser” means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who for valuable consideration acquires an interest in property.”.

(3) After the Article inserted by paragraph (2) insert—

“Pre-incorporation contracts and deeds

46B.—(1) A contract which purports to be made by or on behalf of a company at a time when the company has not been formed has effect, subject to any agreement to the contrary, as one made with the person purporting to act for the company or as agent for it, and he is personally liable on the contract accordingly.

(2) Paragraph (1) applies to the making of a deed as it applies to the making of a contract.”.

(4) In Schedule 21 of the Companies Order (provisions applying to unregistered companies), at the appropriate place insert—

“Article 46	Company contracts.	Subject to Article 667(3).
Article 46A	Execution of documents.	Subject to Article 667(3).
Article 46B	Pre-incorporation contracts and deeds.	Subject to Article 667(3).”.

(5) The Department may make provision by regulations applying Articles 46 to 46B of the Companies Order (company contracts; execution of documents; pre-incorporation contracts and

deeds) to companies incorporated outside Northern Ireland, subject to such exceptions, adaptations or modifications as may be specified in the regulations.

(6) Schedule 4 contains further minor and consequential amendments relating to company contracts, the execution of documents by companies and related matters.

Members' rights to damages, &c.

66.—(1) In Part V of the Companies Order (allotment of shares and debentures), before Article 122 and after the heading “Other matters arising out of allotment, etc.”, insert—

“Right to damages, etc. not affected

121A. A person is not debarred from obtaining damages or other compensation from a company by reason only of his holding or having held shares in the company or any right to apply or subscribe for shares or to be included in the company’s register in respect of shares.”.

(2) In Article 126 of the Companies Order (extended operation of certain provisions applying to public companies) for “and 120 to 125” substitute “, 120, 121 and 122 to 125”.

Financial assistance for purposes of employees' share scheme

67. In Chapter VI of Part VI of the Companies Order (financial assistance by company for purchase of its own shares), in Article 163 (transactions not prohibited), for paragraph (4)(b) (provision of money in accordance with employees' share scheme) substitute—

“(b) the provision by a company, in good faith in the interests of the company, of financial assistance for the purposes of an employees' share scheme.”.

Issue of redeemable shares

68.—(1) In Part VI of the Companies Order (share capital, its increase, maintenance and reduction), Chapter VII (redeemable shares, purchase by a company of its own shares) is amended as follows.

(2) After Article 169 (power to issue redeemable shares) insert—

“Terms and manner of redemption

169A.—(1) Redeemable shares may not be issued unless the following conditions are satisfied as regards the terms and manner of redemption.

(2) The date on or by which, or dates between which, the shares are to be or may be redeemed must be specified in the company’s articles or, if the articles so provide, fixed by the directors, and in the latter case the date or dates must be fixed before the shares are issued.

(3) Any other circumstances in which the shares are to be or may be redeemed must be specified in the company’s articles.

(4) The amount payable on redemption must be specified in, or determined in accordance with, the company’s articles, and in the latter case the articles must not provide for the amount to be determined by reference to any person’s discretion or opinion.

(5) Any other terms and conditions of redemption shall be specified in the company’s articles.

(6) Nothing in this Article shall be construed as requiring a company to provide in its articles for any matter for which provision is made by this Order.”.

(3) In Article 170 (financing, &c. of redemption)—

- (a) omit paragraph (3) (which is superseded by the new Article 169A), and
- (b) in paragraph (4) (cancellation of shares on redemption) for “redeemed under this Article” substitute “redeemed under this Chapter”.

(4) In Article 172 (power of company to purchase own shares), for paragraph (2) (application of provisions relating to redeemable shares) substitute—

“(2) Articles 169, 170 and 171 apply to the purchase by a company under this Article of its own shares as they apply to the redemption of redeemable shares.”.

Disclosure of interests in shares

69.—(1) Part VII of the Companies Order (disclosure of interests in shares) is amended as follows.

(2) In Article 207(2) (notifiable interests), for the words from “the percentage” to the end substitute “3 per cent. of the nominal value of that share capital”.

The order bringing the above amendment into operation may make such provision as appears to the Head of the Department appropriate as to the obligations of a person whose interest in a company’s shares becomes notifiable by virtue of the amendment coming into operation.

(3) In Articles 210(1) and (4) and 214(8) (which require notification of certain matters within a specified period) for “5 days” substitute “2 days”.

(4) In Article 210 (particulars to be contained in notification), for paragraph (3) substitute—

“(3) A notification (other than one stating that a person no longer has a notifiable interest) shall include the following particulars, so far as known to the person making the notification at the date when it is made—

- (a) the identity of each registered holder of shares to which the notification relates and the number of such shares held by each of them, and
- (b) the number of such shares in which the interest of the person giving the notification is such an interest as is mentioned in Article 216(5).”.

(5) After Article 218 insert—

“Power to make further provision by regulations

218A.—(1) The Department may by regulations amend—

- (a) the definition of “relevant share capital” (Article 206(2)),
- (b) the percentage giving rise to a “notifiable interest” (Article 207(2)),
- (c) the periods within which an obligation of disclosure must be fulfilled or a notice must be given (Articles 210(1) and (4) and 214(8)),
- (d) the provisions as to what is taken to be an interest in shares (Article 216) and what interests are to be disregarded (Article 217), and
- (e) the provisions as to company investigations (Article 220);

and the regulations may amend, replace or repeal the provisions referred to above and make such other consequential amendments or repeals of provisions of this Part as appear to the Department to be appropriate.

(2) The regulations may contain such transitional provisions as appear to the Department to be appropriate, and may in particular make provision as to the obligations of a person whose interest in a company’s shares becomes or ceases to be notifiable by virtue of the regulations.”.

(6) Any regulations made under Article 217(1)(h) which are in force immediately before the repeal of that sub-paragraph by this Order shall have effect as if made under Article 218A(1)(d) as inserted by paragraph (5).

Orders imposing restrictions on shares

70.—(1) The Department may by regulations make such amendments of the provisions of the Companies Order relating to orders imposing restrictions on shares as appear to it necessary or expedient—

- (a) for enabling orders to be made in a form protecting the rights of third parties;
- (b) with respect to the circumstances in which restrictions may be relaxed or removed;
- (c) with respect to the making of interim orders by a court.

(2) The provisions referred to in paragraph (1) are Article 218(5), Article 224(1) and (2), Article 438 and Part XVI of the Companies Order.

(3) The regulations may contain such transitional provisions as appear to the Department to be appropriate.

(4) Regulations under this Article shall not be made unless a draft of the regulations has been laid before and approved by resolution of the Assembly.

A company's registered office

71. For Article 295 of the Companies Order (registered office) substitute—

“Registered office

295.—(1) A company shall at all times have a registered office to which all communications and notices may be addressed.

(2) On incorporation the situation of the company's registered office is that specified in the statement sent to the registrar under Article 21.

(3) The company may change the situation of its registered office from time to time by giving notice in the prescribed form to the registrar.

(4) The change takes effect upon the notice being registered by the registrar, but until the end of the period of 14 days beginning with the date on which it is registered a person may validly serve any document on the company at its previous registered office.

(5) For the purposes of any duty of a company—

- (a) to keep at its registered office, or make available for public inspection there, any register, index or other document, or
- (b) to mention the address of its registered office in any document,

a company which has given notice to the registrar of a change in the situation of its registered office may act on the change as from such date, not more than 14 days after the notice is given, as it may determine.

(6) Where a company unavoidably ceases to perform at its registered office any such duty as is mentioned in paragraph (5)(a) in circumstances in which it was not practicable to give prior notice to the registrar of a change in the situation of its registered office, but—

- (a) resumes performance of that duty at other premises as soon as practicable, and
- (b) gives notice accordingly to the registrar of a change in the situation of its registered office within 14 days of doing so,

it shall not be treated as having failed to comply with that duty.

(7) In proceedings for an offence of failing to comply with any such duty as is mentioned in paragraph (5), it is for the person charged to show that by reason of the matters referred to in that paragraph or paragraph (6) no offence was committed.”.

Effecting of insurance for officers and auditors of company

72.—(1) In Article 318 of the Companies Order (provisions exempting officers and auditors from liability), for paragraph (3) (permitted provisions) substitute—

“(3) This Article does not prevent a company—

- (a) from purchasing and maintaining for any such officer or auditor insurance against any such liability, or
- (b) from indemnifying any such officer or auditor against any liability incurred by him—
 - (i) in defending any proceedings (whether civil or criminal) in which judgment is given in his favour or he is acquitted, or
 - (ii) in connection with any application under Article 154(3) or (4) (acquisition of shares by innocent nominee) or Article 675 (general power to grant relief in case of honest and reasonable conduct) in which relief is granted to him by the court.”.

(2) In Part I of Schedule 7 to the Companies Order (general matters to be dealt with in directors' report), after paragraph 5 insert—

“Insurance effected for officers or auditors

5A. Where in the financial year the company has purchased or maintained any such insurance as is mentioned in Article 318(3)(a) (insurance of officers or auditors against liabilities in relation to the company), that fact shall be stated in the report.”.

Increase of limits on certain exemptions

73. Part XI of the Companies Order (enforcement of fair dealing by directors) is amended as follows—

- (a) in Article 340(1)(b) (short-term quasi-loans) for “£1,000” substitute “£5,000”;
- (b) in Article 342 (loans of small amounts) for “£2,500” substitute “£5,000”;
- (c) in Article 346(4) and (6) (loans or quasi-loans by money-lending company) for “£50,000” substitute “£100,000”.

Annual returns

74.—(1) In Part XII of the Companies Order (company administration and procedure), for Chapter III (annual return) substitute—

“CHAPTER III ANNUAL RETURN

Duty to deliver annual returns

371.—(1) Every company shall deliver to the registrar successive annual returns each of which is made up to a date not later than the date which is from time to time the company’s “return date”, that is—

- (a) the anniversary of the company’s incorporation, or
- (b) if the company’s last return delivered in accordance with this Chapter was made up to a different date, the anniversary of that date.

(2) Each return shall—

- (a) be in the prescribed form,
- (b) contain the information required by or under the following provisions of this Chapter, and
- (c) be signed by a director or the secretary of the company;

and it shall be delivered to the registrar within 28 days after the date on which it is made up.

(3) If a company fails to deliver an annual return in accordance with this Chapter before the end of the period of 28 days after a return date, the company is guilty of an offence and liable to a fine and, in the case of continued contravention, to a daily default fine.

The contravention continues until such time as an annual return made up to that return date and complying with the requirements of paragraph (2) (except as to date of delivery) is delivered by the company to the registrar.

(4) Where a company is guilty of an offence under paragraph (3), every director or secretary of the company is similarly liable unless he shows that he took all reasonable steps to avoid the commission or continuation of the offence.

(5) The references in this Article to a return being delivered “in accordance with this Chapter” are—

- (a) in relation to a return made after the coming into operation of Article 74 of the Companies (No. 2) (Northern Ireland) Order 1990, to a return with respect to which all the requirements of paragraph (2) are complied with;
- (b) in relation to a return made before that time, to a return with respect to which the formal and substantive requirements of this Chapter as it then had effect were complied with, whether or not the return was delivered in time.

Contents of annual return: general

372.—(1) Every annual return shall state the date to which it is made up and shall contain the following information—

- (a) the address of the company’s registered office;
- (b) the type of company it is and its principal business activities;
- (c) the name and address of the company secretary;
- (d) the name and address of every director of the company;
- (e) in the case of each individual director—
 - (i) his nationality, date of birth and business occupation, and

- (ii) such particulars of other directorships and former names as are required to be contained in the company's register of directors;
 - (f) in the case of any corporate director, such particulars of other directorships as would be required to be contained in that register in the case of an individual;
 - (g) if the register of members is not kept at the company's registered office, the address of the place where it is kept;
 - (h) if any register of debenture holders (or a duplicate of any such register or a part of it) is not kept at the company's registered office, the address of the place where it is kept;
 - (i) if the company has elected—
 - (i) to dispense under Article 260 with the laying of accounts and reports before the company in general meeting, or
 - (ii) to dispense under Article 374A with the holding of annual general meetings, a statement to that effect.
- (2) The information as to the company's type shall be given by reference to the classification scheme prescribed for the purposes of this Article.
- (3) The information as to the company's principal business activities may be given by reference to one or more categories of any prescribed system of classifying business activities.
- (4) A person's "name" and "address" mean, respectively—
- (a) in the case of an individual, his Christian name (or other forename) and surname and his usual residential address;
 - (b) in the case of a corporation or Scottish firm, its corporate or firm name and its registered or principal office.
- (5) In the case of a peer, or an individual usually known by a title, the title may be stated instead of his Christian name (or other forename) and surname or in addition to either or both of them.
- (6) Where all the partners in a firm are joint secretaries, the name and principal office of the firm may be stated instead of the names and addresses of the partners.

Contents of annual return: particulars of share capital and shareholders

- 372A.**—(1) The annual return of a company having a share capital shall contain the following information with respect to its share capital and members.
- (2) The return shall state the total number of issued shares of the company at the date to which the return is made up and the aggregate nominal value of those shares.
 - (3) The return shall state with respect to each class of shares in the company—
 - (a) the nature of the class, and
 - (b) the total number and aggregate nominal value of issued shares of that class at the date to which the return is made up.
 - (4) The return shall contain a list of the names and addresses of every person who—
 - (a) is a member of the company on the date to which the return is made up, or
 - (b) has ceased to be a member of the company since the date to which the last return was made up (or, in the case of the first return, since the incorporation of the company);and if the names are not arranged in alphabetical order the return shall have annexed to it an index sufficient to enable the name of any person in the list to be easily found.
 - (5) The return shall also state—

- (a) the number of shares of each class held by each member of the company at the date to which the return is made up, and
- (b) the number of shares of each class transferred since the date to which the last return was made up (or, in the case of the first return, since the incorporation of the company) by each member or person who has ceased to be a member, and the dates of registration of the transfers.

(6) The return may, if either of the two immediately preceding returns has given the full particulars required by paragraphs (4) and (5), give only such particulars as relate to persons ceasing to be or becoming members since the date of the last return and to shares transferred since that date.

(7) Paragraphs (4) and (5) do not require the inclusion of particulars entered in an external branch register if copies of those entries have not been received at the company's registered office by the date to which the return is made up.

Those particulars shall be included in the company's next annual return after they are received.

(8) Where the company has converted any of its shares into stock, the return shall give the corresponding information in relation to that stock, stating the amount of stock instead of the number or nominal value of shares.

Supplementary provisions: regulations and interpretation

373.—(1) The Department may by regulations make further provision as to the information to be given in a company's annual return, which may amend or repeal the provisions of Articles 372 and 372A.

(2) For the purposes of this Chapter, except Article 371(2)(c) (signature of annual return), a shadow director shall be deemed to be a director.”

(2) Where a company was, immediately before the coming into operation of this Article, in default with respect to the delivery of one or more annual returns, this Article does not affect its obligation to make such a return (in accordance with Chapter III of Part XII of the Companies Order as it then had effect) or any liability arising from failure to do so.

(3) In Schedule 23 to the Companies Order (punishment of offences) in the entry relating to Article 371(7), in the first column for “371(7)” substitute “371(3)” and for the words in the second column substitute “Company failing to deliver annual return in due time”.

(4) In Schedule 1 to the Companies (Northern Ireland) Order 1989(2) (matters relevant to determining unfitness of directors), in paragraph 4 (failure of company to comply with certain provisions), for sub-paragraphs (f) and (g) substitute—

“(f) Article 371 (duty of company to make annual returns);”.

(5) In section 565(7) of the Income and Corporation Taxes Act 1988(3) (conditions for exemption from provisions relating to sub-contractors in construction industry: compliance with requirements of Companies Order), in paragraph (d) for “Articles 371, 372 and 373” substitute “Articles 371 to 373”.

Application to declare dissolution of company void

75.—(1) Article 602 of the Companies Order (power of court to declare dissolution of company void) is amended as follows.

(2) In paragraph (1) omit the words “at any time within 2 years of the date of the dissolution”.

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(3) After paragraph (3) add—

“(4) Subject to the following provisions, an application under this Article may not be made after the end of the period of two years from the date of the dissolution of the company.

(5) An application for the purpose of bringing proceedings against the company—

(a) for damages in respect of personal injuries (including any sum claimed by virtue of section 14(2)(c) of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937 (funeral expenses)), or

(b) for damages under the Fatal Accidents (Northern Ireland) Order 1977,

may be made at any time; but no order shall be made on such an application if it appears to the court that the proceedings would fail by virtue of any statutory provision as to the time within which proceedings must be brought.

(6) Nothing in paragraph (5) affects the power of the court on making an order under this Article to direct that the period between the dissolution of the company and the making of the order shall not count for the purposes of any such statutory provision.

(7) In paragraph (5)(a) “personal injuries” includes any disease and any impairment of a person’s physical or mental condition.”.

(4) An application may be made under Article 602(5) of the Companies Order as inserted by paragraph (3) (proceedings for damages for personal injury, &c.) in relation to a company dissolved before the coming into operation of this Article notwithstanding that the time within which the dissolution might formerly have been declared void under that Article had expired before this Article came into operation.

But no such application shall be made in relation to a company dissolved more than twenty years before the coming into operation of this Article.

(5) Except as provided by paragraph (4), the amendments made by this Article do not apply in relation to a company which was dissolved more than two years before the coming into operation of this Article.

Abolition of doctrine of deemed notice

76.—(1) In Part XXIV of the Companies Order (the registrar of companies, his functions and office), after Article 660 insert—

“Exclusion of deemed notice

660A.—(1) A person shall not be taken to have notice of any matter merely because of its being disclosed in any document kept by the registrar (and thus available for inspection) or made available by the company for inspection.

(2) This does not affect the question whether a person is affected by notice of any matter by reason of a failure to make such inquiries as ought reasonably to be made.

(3) In this Article “document” includes any material which contains information.

(4) Nothing in this Article affects the operation of Article 417F (under which a person taking a charge over a company’s property is deemed to have notice of matters disclosed on the companies charges register).”.

(2) In Schedule 21 to the Companies Order (unregistered companies), in the entry for Part XXIV at the appropriate place insert—

“Article 660A

Abolition of doctrine of deemed notice.

Subject to Article 667(3).”.

Rights of inspection and related matters

77.—(1) In Part XXV of the Companies Order (miscellaneous and supplementary provisions), after Article 672 insert—

“Obligations of company as to inspection of registers, &c.

672A.—(1) The Department may make provision by regulations as to the obligations of a company which is required by any provision of this Order—

- (a) to make available for inspection any register, index or document, or
- (b) to provide copies of any such register, index or document, or part of it;

and a company which fails to comply with the regulations shall be deemed to have refused inspection or, as the case may be, to have failed to provide a copy.

(2) The regulations may make provision as to the time, duration and manner of inspection, including the circumstances in which and extent to which the copying of information is permitted in the course of inspection.

(3) The regulations may define what may be required of the company as regards the nature, extent and manner of extracting or presenting any information for the purposes of inspection or the provision of copies.

(4) Where there is power to charge a fee, the regulations may make provision as to the amount of the fee and the basis of its calculation.

(5) Nothing in any provision of this Order or in the regulations shall be construed as preventing a company from affording more extensive facilities than are required by the regulations or, where a fee may be charged, from charging a lesser fee than that prescribed or no fee at all.”

(2) In Article 179(5) of the Companies Order (contract for purchase by company of its own shares), omit the words from “, during business hours” to “for inspection”.

(3) In Article 185(5) of the Companies Order (statutory declaration and auditors' report relating to payment out of capital), in sub-paragraph (b) omit the words from “during business hours” to “period”.

(4) In Article 200 of the Companies Order (register of debenture holders)—

- (a) in paragraph (1), omit the words from “(but” to “for inspection)” and for the words from “a fee of 5 pence” to the end substitute “such fee as may be prescribed”;
- (b) in paragraph (2) for the words from “10 pence” to the end substitute “such fee as may be prescribed”; and
- (c) in paragraph (3), after “on payment” insert “of such fee as may be prescribed” and omit sub-paragraphs (a) and (b).

(5) In Article 227 of the Companies Order (register of interests in shares, &c.)—

- (a) in paragraph (1), omit the words from “during” to “for inspection”); and
- (b) in paragraph (2) for the words from “10 pence” to “required to be copied” substitute “such fee as may be prescribed”.

(6) In Article 296 of the Companies Order (register of directors and secretaries), in paragraph (3), omit the words from “during” to “for inspection)” and for the words from “5 pence” to the end substitute “such fee as may be prescribed”.

(7) In Article 326 of the Companies Order (directors' service contracts), in paragraph (7) omit the words from “, during business hours” to “for inspection”.

(8) In Article 364 of the Companies Order (register and index of members' names)—

- (a) in paragraph (1), omit “during business hours” and for “the appropriate charge” substitute “such fee as may be prescribed”;
 - (b) omit paragraph (2);
 - (c) in paragraph (3) for “the appropriate charge” substitute “such fee as may be prescribed”; and
 - (d) omit paragraph (4).
- (9) In Article 391 of the Companies Order (minutes of proceedings of general meetings)—
- (a) in paragraph (1), omit “during business hours”;
 - (b) omit paragraph (2); and
 - (c) in paragraph (3), after “entitled” insert “on payment of such fee as may be prescribed” and omit the words from “at a charge” to the end.
- (10) In Part IV of Schedule 13 to the Companies Order (register of directors' interests)—
- (a) in paragraph 24, omit the words from “during” to “for inspection)” and for the words from “5 pence” to the end substitute “such fee as may be prescribed”; and
 - (b) in paragraph 25(1), for the words from “10 pence” to the end substitute “such fee as may be prescribed”.
- (11) In Schedule 21 to the Companies Order (provisions applying to unregistered companies), in the entry relating to Part XXV at the appropriate place insert—

“Article 672A	Rights of inspection and related matters.	To apply only so far as this provision has effect in relation to provisions applying by virtue of the foregoing provisions of this Schedule.”.
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Minor amendments

- 78.** The Companies Order has effect with the further amendments specified in Schedule 5.