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STATUTORY RULES OF NORTHERN IRELAND

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**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—

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(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 as 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.

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(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

L.S.

19th April 1993.

*A. L. Brown*  
Assistant Secretary

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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.

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(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).

## Part II

### Institutions not required to prepare Accounts under Parent Law

#### Scope of Part

- 8.—(1) This part applies to any institution to which Article 648A applies which—
- (a) is incorporated, and
  - (b) is not required by the law of the country in which it has its head office to prepare and have audited accounts.
- (2) In this Part, “branch” has the meaning given by Article 648A.

#### Preparation of accounts and reports

9. An institution to which this Part applies shall in respect of each financial year of the institution prepare the like accounts and directors' report, and cause to be prepared such an auditors' report, as would be required if the institution were a company to which Article 649 applied.

10. Articles 231 to 233 (financial year and accounting reference periods)(10) apply to an institution to which this Part applies subject to the following modifications—

- (a) for the references to the incorporation of the company there shall be substituted references to the institution becoming an institution to which this Part applies; and
- (b) Article 233(4) shall be omitted.

#### Duty to deliver accounts and reports

11.—(1) An institution to which this Part applies shall in respect of each financial year of the institution deliver to the registrar copies of the accounts and reports prepared in accordance with paragraph 9.

(2) If any document comprised in those accounts or reports is in a language other than English, the institution shall annex to the copy delivered a translation of it into English, certified in the prescribed manner to be a correct translation.

#### Time for delivery

12.—(1) The period allowed for delivering accounts and reports under paragraph 11 is 13 months after the end of the relevant accounting reference period, subject to the following provisions of this paragraph.

(2) If the relevant accounting reference period is the institution's first and is a period of more than 12 months, the period allowed is 13 months from the first anniversary of the institution becoming an institution to which this Part applies.

(3) If the relevant accounting reference period is treated as shortened by virtue of a notice given by the institution under Article 233, the period allowed is that applicable in accordance with the above provisions or three months from the date of the notice under that Article, whichever last expires.

(4) If for any special reason the Department thinks fit it may, on an application made before the expiry of the period otherwise allowed, by notice in writing to an institution to which this Part applies extend that period by such further period as may be specified in the notice.

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(10) Articles 231 to 233 were inserted into the 1986 Order by Article 5 of the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5))

(5) In this paragraph “the relevant accounting reference period” means the accounting reference period by reference to which the financial year for the accounts in question was determined.

### **Penalty for non-compliance**

13.—(1) If the requirements of paragraph 11 are not complied with before the end of the period allowed for delivering accounts and reports, or if the accounts and reports delivered do not comply with the requirements of this Order, 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 such an offence to prove that he took all reasonable steps for securing that the requirements in question would be complied with.

(3) It is not a defence in relation to a failure to deliver copies to the registrar to prove that the documents in question were not in fact prepared as required by this Schedule.”.

## SCHEDULE 2

Regulation 3(1)

### **Amendments of Part XXIII of the 1986 Order**

#### **Part I**

#### **Registration, etc.**

#### **Preliminary**

1. Chapter I of Part XXIII shall be amended as mentioned in paragraphs 2 to 13.

#### **Registration**

2. Before Article 641 there shall be inserted—

#### **“Branch registration under the Eleventh Company Law Directive (89/666/EEC)**

640A.—(1) This Article applies to any limited company which—

- (a) is incorporated outside the United Kingdom and Gibraltar, and
- (b) has a branch in Northern Ireland.

(2) Schedule 20A (branch registration under the Eleventh Company Law Directive (89/666/EEC) shall have effect in relation to any company to which this Article applies.

#### **Scope of Articles 641 and 642**

640B. Articles 641 and 642 shall not apply to any limited company which—

- (a) is incorporated outside the United Kingdom and Gibraltar, and
- (b) has a branch in the United Kingdom.”.

3. After Schedule 20 there shall be inserted—

## “SCHEDULE 20A

Article 640A

**Branch Registration under the Eleventh Company Law Directive (89/666/EEC)****Duty to Register**

1.—(1) A company shall, within one month of having opened a branch in Northern Ireland, deliver to the registrar for registration a return in the prescribed form containing—

- (a) such particulars about the company as are specified in paragraph 2,
- (b) such particulars about the branch as are specified in paragraph 3, and
- (c) if the company is one to which Article 648AA(11) applies, such particulars in relation to the registration of documents under Schedule 20D(12) as are specified in paragraph 4.

(2) The return shall, except where sub-paragraph (3) applies, be accompanied by the documents specified in paragraph 5 and, if the company is one to which Part I of Schedule 20D applies, the documents specified in paragraph 6.

(3) This sub-paragraph applies where—

- (a) at the time the return is delivered, the company has another branch in the United Kingdom.
- (b) the return contains a statement to the effect that the documents specified in paragraph 5, and, if the company is one to which Part I of Schedule 20D applies, paragraph 6, are included in the material registered in respect of the other branch, and
- (c) the return states where the other branch is registered and what is its registered number.

(4) In sub-paragraph (1), the reference to having opened a branch in Northern Ireland includes a reference to a branch having become situated there on ceasing to be situated elsewhere.

(5) If at the date on which the company opens the branch in Northern Ireland the company is subject to any proceedings referred to in Article 652O(1) (winding up) or 652P(1) (insolvency proceedings etc)(13), the company shall deliver a return under Article 652O(1) or (as the case maybe) 652P(1) within one month of that date.

If on or before that date a person has been appointed to be liquidator of the company and continues in that office at that date, Article 652O(3) and (4) (liquidator to make return within 14 days of appointment) shall have effect as if it required a return to be made under that Article within one month of the date of the branch being opened.

**Particulars required**

2.—(1) The particulars referred to in paragraph 1(1)(a) are—

- (a) the corporate name of the company,
- (b) its legal form,
- (c) if it is registered in the country of its incorporation, the identity of the register in which it is registered and the number with which it is so registered,
- (d) a list of its directors and secretary, containing—
  - (i) with respect to each director, the particulars specified in sub-paragraph (3), and
  - (ii) with respect to the secretary (or where there are joint secretaries, with respect to each of them) the particulars specified in sub-paragraph (4).

(11) Article 648AA is inserted into the 1986 Order by paragraph 15 of Schedule 2

(12) Schedule 20D is inserted into the 1986 Order by paragraph 17 of Schedule 2

(13) Articles 652O and 652P are inserted into the 1986 Order by paragraph 18 of Schedule 2



- (e) the extent of the powers of the directors to represent the company in dealings with third parties and in legal proceedings, together with a statement as to whether they may act alone or must act jointly and, if jointly, the name of any other person concerned, and
  - (f) whether the company is an institution to which Article 648A (or the equivalent provision in Great Britain) applies.
- (2) In the case of a company which is not incorporated in a Member State, those particulars also include—
- (a) the law under which the company is incorporated.
  - (b) (in the case of a company to which either paragraphs 2 and 3 of Part I of Schedule 20C or Schedule 20D applies) the period for which the company is required by the law under which it is incorporated to prepare accounts, together with the period allowed for the preparation and public disclosure of accounts for such a period, and
  - (c) unless disclosed by the documents specified in paragraph 5—
    - (i) the address of its principal place of business in its country of incorporation,
    - (ii) its objects, and
    - (iii) the amount of its issued share capital.
- (3) The particulars referred to in sub-paragraph (1)(d)(i) are—
- (a) in the case of an individual—
    - (i) his name,
    - (ii) any former name,
    - (iii) his usual residential address,
    - (iv) his nationality,
    - (v) his business occupation (if any),
    - (vi) particulars of any other directorships held by him, and
    - (vii) his date of birth;
  - (b) in the case of a corporation or Scottish firm, its corporate or firm name and registered or principal office.
- (4) The particulars referred to in sub-paragraph (1)(d)(ii) are—
- (a) in the case of an individual, his name, any former name and his usual residential address;
  - (b) in the case of a corporation or Scottish firm, its corporate or firm name and registered or principal office.
- Where all the partners in a firm are joint secretaries of the company, the name and principal office of the firm may be stated instead of the particulars required by head (a).
- (5) In sub-paragraphs 3(a) and 4(a)—
- (a) “name” means a person’s forename and surname, except that in the case of a peer, or an individual usually known by a title, the title may be stated instead of his forename and surname, or in addition to either or both of them; and
  - (b) the reference to a former name does not include—
    - (i) in the case of a peer, or an individual normally known by a title, the name by which he was known previous to the adoption of or succession to the title;
    - (ii) in the case of any person, a former name which was changed or disused before he attained the age of 18 years or which has been changed or disused for 20 years or more;

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(iii) in the case of a married woman, the name by which she was known previous to the marriage.

(6) Where—

- (a) at the time a return is delivered under paragraph 1(1) the company has another branch in Northern Ireland; and
- (b) the company has delivered the particulars required by sub-paragraphs (1)(b) to (f) and (2) to (5) to the registrar with respect to that branch (or to the extent it is required to do so by virtue of Schedule 20B to this Order) and has no outstanding obligation to make a return to the registrar in respect of that branch under paragraph 7 in relation to any alteration to those particulars,

the company may adopt the particulars so delivered as particulars which the registrar is to treat as having been filed by the return by referring in the return to the fact that the particulars have been filed in respect of that other branch and giving the number with which the other branch is registered.

3. The particulars referred to in paragraph 1(1)(b) are—

- (a) the address of the branch,
- (b) the date on which it was opened,
- (c) the business carried on at it,
- (d) if different from the name of the company, the name in which that business is carried on,
- (e) a list of the names and addresses of all persons resident in Northern Ireland authorised to accept on the company's behalf service of process in respect of the business of the branch and of any notices required to be served on the company in respect of the business of the branch.
- (f) a list of the names and usual residential addresses of all persons authorised to represent the company as permanent representatives of the company for the business of the branch.
- (g) the extent of the authority of any person falling within sub-paragraph (f), including whether that person is authorised to act alone or jointly, and
- (h) if a person falling within sub-paragraph (f) is not authorised to act alone, the name of any person with whom he is authorised to act.

4. The particulars referred to in paragraph 1(1)(c) are—

- (a) whether it is intended to register documents under paragraph 2(2) or, as the case may be, 10(1) of Schedule 20D in respect of the branch or in respect of some other branch in the United Kingdom, and
- (b) if it is, where that other branch is registered and what is its registered number.

#### **Documents required**

5. The first documents referred to in paragraph 1(2) are—

- (a) a certified copy of the charter, statutes or memorandum and articles of the company (or other instrument constituting or defining the company's constitution), and
- (b) if any of the documents mentioned in sub-paragraph (a) is not written in the English language, a translation of it into English certified in the prescribed manner to be a correct translation.

6.—(1) The second documents referred to in paragraph 1(2) are—

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- (a) copies of the latest accounting documents prepared in relation to a financial period of the company to have been publicly disclosed in accordance with the law of the country in which it is incorporated before the end of the period allowed for compliance with paragraph 1 in respect of the branch or, if earlier, the date on which the company complies with paragraph 1 in respect of the branch, 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) In sub-paragraph (1)(a) “financial period” and “accounting documents” shall be construed in accordance with paragraph 6 of Schedule 20D.

### **Alterations**

7.—(1) If, after a company has delivered a return under paragraph (1), any alteration is made in —

- (a) its charter, statutes or memorandum and articles (or other instrument constituting or defining its constitution), or
- (b) any of the particulars referred to in paragraph 1(1).

the company shall, within the time specified in sub-paragraph (2), deliver to the registrar for registration a return in the prescribed form containing the prescribed particulars of the alteration.

In the case of an alteration to any of the documents referred to in head (a), the return shall be accompanied by a certified copy of the document as altered, together with, if the document is not written in the English language, a translation of it into English certified in the prescribed manner to be a correct translation.

- (2) The time for the delivery of the return required by sub-paragraph (1) is—
  - (a) in the case of an alteration in any of the particulars specified in paragraph 3, 21 days after the alteration is made; or
  - (b) in the case of any other alteration, 21 days after the date on which notice of the alteration in question could have been received in Northern Ireland in due course of post (if despatched with due diligence).
- (3) Where—
  - (a) a company has more than one branch in Northern Ireland, and
  - (b) an alteration relates to more than one of those branches,

sub-paragraph (1) shall have effect to require the company to deliver a return in respect of each of the branches to which the alteration relates.

- (4) For the purposes of sub-paragraph (3)—
  - (a) an alteration in any of the particulars specified in paragraph 2 shall be treated as relating to every branch of the company (though where the company has more than one branch in Northern Ireland a return in respect of an alteration in any of those particulars which gives the branch numbers of two or more such branches shall be treated as a return in respect of each branch whose number is given), but
  - (b) an alteration in the company’s charter or memorandum and articles (or other instrument constituting or defining its constitution) shall only be treated as relating to a branch if the document altered is included in the material registered in respect of it.

8.—(1) Sub-paragraph (2) applies where—

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- (a) a company's return under paragraph 1(1) includes a statement to the effect mentioned in paragraph 1(3)(b), and
  - (b) the statement ceases to be true so far as concerns the documents specified in paragraph 5.
- (2) The company shall, within the time specified in sub-paragraph (3), deliver to the registrar for registration in respect of the branch to which the return relates—
- (a) the documents specified in paragraph 5, or
  - (b) a return in the prescribed form—
    - (i) containing a statement to the effect that those documents are included in the material which is registered in respect of another branch of the company in the United Kingdom, and
    - (ii) stating where the other branch is registered and what is its registered number.
- (3) The time for complying with sub-paragraph (2) is 21 days after the date on which notice of the fact that the statement in the earlier return has ceased to be true could have been received in Northern Ireland in due course of post (if despatched with due diligence).
- (4) Sub-paragraph (2) shall also apply where, after a company has made a return under sub-paragraph (2)(b), the statement to the effect mentioned in sub-paragraph (2)(b)(i) ceases to be true.
- (5) For the purposes of sub-paragraph (2)(b), where the company has more than one branch in Northern Ireland a return which gives the branch numbers of two or more such branches shall be treated as a return in respect of each branch whose number is given.”.
4. After Article 642 there shall be inserted—

**“Change in registration regime**

642A.—(1) Where a company ceases to be a company to which Article 640A applies and, immediately after ceasing to be such a company—

- (a) continues to have in Northern Ireland a place of business which it had immediately before ceasing to be such a company, and
- (b) does not have a branch in Great Britain,

it shall be treated for the purposes of Article 641 as having established the place of business on the date when it ceased to be a company to which Article 640A applies.

(2) Where a limited company incorporated outside the United Kingdom and Gibraltar—

- (a) ceases to have a branch in Great Britain, and
- (b) both immediately before and immediately after ceasing to do so, has a place of business, but not a branch, in Northern Ireland,

it shall be treated for the purposes of Article 641 as having established the place of business on the date when it ceased to have a branch in Great Britain.

(3) Schedule 20B (transitional provisions in relation to change in registration regime) shall have effect.”.

5. After Schedule A there shall be inserted—

“SCHEDULE 20B

Article 642A(3)

**Change in Registration Regime: Transitional Provisions**

1.—(1) This paragraph applies where a company which becomes a company to which Article 640A applies was, immediately before becoming such a company (referred to in this paragraph as the relevant time), a company to which Article 641 applies.

(2) The company need not include the particulars specified in paragraph 2(1)(d) of Schedule 20A in the first return to be delivered under paragraph 1(1) of that Schedule to the registrar if at the relevant time—

- (a) it had an established place of business in Northern Ireland,
- (b) it had complied with its obligations under Article 641(1)(b)(i)(14), and
- (c) it had no outstanding obligation to make a return to the registrar under paragraph (1) of Article 642, so far as concerns any alteration of the kind mentioned in paragraph (1) (b) of that Article,

and if it states in the return that the particulars have been previously filed in respect of a place of business of the company, giving the company’s registered number.

(3) The company shall not be required to deliver the documents mentioned in paragraph 5 of Schedule 20A with the first return to be delivered under paragraph 1(1) of that Schedule to the registrar if at the relevant time—

- (a) it had an established place of business in Northern Ireland,
- (b) it had delivered the documents mentioned in Article 641(1)(a) to the registrar, and
- (c) it had no outstanding obligation to make a return to the registrar under paragraph (1) of Article 642 so far as concerns any alteration in any of the documents mentioned in sub-paragraph (a) of that paragraph,

and if it states in the return that the documents have been previously filed in respect of a place of business of the company, giving the company’s registered number.

2.—(1) This paragraph applies where a company which becomes a company to which Article 641 applies was, immediately before becoming such a company (referred to in this paragraph as the relevant time), a company to which Article 640A applies.

(2) The company shall not be required to deliver the documents mentioned in Article 641(1) (a) to the registrar if at the relevant time—

- (a) it had a branch in Northern Ireland,
- (b) the documents mentioned in paragraph 5 of Schedule 20A were included in the material registered in respect of the branch, and
- (c) it had no outstanding obligation to make a return to the registrar under paragraph 7 of that Schedule, so far as concerns any alteration in any of the documents mentioned in sub-paragraph (1)(a) of that paragraph,

and if it states in the return that the documents have previously been filed in respect of a branch of the company, giving the branch’s registered number.

(3) The company need not include the particulars mentioned in Article 641(1)(b)(i) in the return to be delivered under Article 641(1)(b) to the registrar if at the relevant time—

- (a) it had a branch in Northern Ireland,

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(14) Article 641 of the 1986 Order was amended by Article 78 of, and paragraph 6 of Schedule 5 to, the Companies (No. 2) Northern Ireland) Order 1990. (S.I. 1990/1504 (N.I. 10)).

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- (b) it had complied with its obligations under paragraph 1(1)(a) of Schedule 20A in respect of the branch, so far as the particulars required by paragraph 2(1)(d) of that Schedule are concerned, and
- (c) it had no outstanding obligation to make a return to the registrar under paragraph 7 of that Schedule, so far as concerns any alteration in any of the particulars required by paragraph 2(1)(d) of that Schedule,

and if it states in the return that the particulars have been previously filed in respect of a branch of the company, giving the branch's registered number.

(4) Where sub-paragraph (3) applies, the reference in Article 642(1)(b) to the list of the directors and secretary shall be construed as a reference to the list contained in the return under paragraph 1(1) of Schedule 20A with any alterations in respect of which a return under paragraph 7(1) of that Schedule has been made.”.

#### **Duty to state name etc.**

6. In Article 643 after paragraph (2) there shall be inserted—

“(3) Every company to which Article 640A applies shall, in the case of each branch of the company registered under paragraph 1 of Schedule 20A, cause the following particulars to be stated in legible characters in all letter paper and order forms used in carrying on the business of the branch—

- (a) the place of registration of the branch, and
- (b) the registered number of the branch.

(4) Every company to which Article 640A applies, which is not incorporated in a Member State and which is required by the law of the country in which it is incorporated to be registered under paragraph 1 of Schedule 20A, cause the following particulars to be stated in legible characters in all letter paper and order forms used in carrying on the business of the branch—

- (a) the identity of the registry in which the company is registered in its country of incorporation, and
- (b) the number with which it is registered.

(5) Every company to which Article 640A applies and which is not incorporated in a Member State shall, in the case of each branch of the company registered under paragraph 1 of Schedule 20A, cause the following particulars to be stated in legible character in all letter paper and order forms used in carrying on the business of the branch—

- (a) the legal form of the company,
- (b) the location of its head office,
- (c) if applicable, the fact that it is being wound up.”.

#### **Regulation in respect of names**

7.—(1) Article 644 shall be amended as follows.

(2) In paragraph (1), for “(defined in paragraph (3))” there shall be substituted “(determined in accordance with paragraphs (3A) and (3B))”.

(3) In paragraph (3), the words from “being the date” to the end are hereby repealed.

(4) After that paragraph there shall be inserted—

“(3A) For the purposes of paragraphs (1) to (3), the relevant date, in relation to a company, is the date on which it has complied with paragraph 1 of Schedule 20A or Article

641(1) or, if there is more than one such date, the first date on which it has complied with either of those provisions since becoming a Part XXIII company.

(3B) But where the company's corporate name has changed since the date ascertained in accordance with paragraph (3A), the relevant date is the date on which the company has, in respect of the change or, if more than one, the latest change, complied with paragraph 7(1) of Schedule 20A or Article 642(2), as the case may be."

### **Service of documents**

8. After Article 644 there shall be inserted—

#### **"Service of documents: companies to which Article 640A applies**

1.—(1) This Article applies to any company to which Article 640A applies.

(2) Any process or notice required to be served on a company to which this Article applies in respect of the carrying on of the business of a branch registered by it under paragraph 1 of Schedule 20A is sufficiently served if—

- (a) addressed to any person whose name has, in respect of the branch, been delivered to the registrar as a person falling within paragraph 3(e) of that Schedule, and
- (b) left at or sent by post to the address for that person which has been so delivered.

(3) Where—

- (a) a company to which this Article applies makes default, in respect of a branch, in delivering to the registrar the particulars mentioned in paragraph 3(e) of Schedule 20A, or
- (b) all the persons whose names have, in respect of a branch, been delivered to the registrar under paragraph 1 of that Schedule as persons falling within paragraph 3(e) are dead or have ceased to reside in Northern Ireland, or refuse to accept service on the company's behalf, or for any reason cannot be served,

a document may be served on the company in respect of the carrying on of the business of the branch by leaving it at, or sending it by post to, any place of business established by the company in Northern Ireland.

(4) Where a company to which this Article applies has more than one branch in Northern Ireland, any notice or process required to be served on the company which is not required to be served in respect of the carrying on of the business of one branch rather than another shall be treated for the purposes of this Article as required to be served in respect of the carrying on of the business of each of its branches."

9. In Article 645(1), after "Part XXIII company" there shall be inserted "to which Article 641 applies".

### **Documents to be filed on cessation of business: companies to which Article 640A applies**

10. After Article 645 there shall be inserted—

#### **"Documents to be filed on cessation of business: companies to which Article 640A applies**

645A. If a company to which Article 640A applies closes a branch in Northern Ireland, it shall forthwith give notice of that fact to the registrar; and from the date on which notice is so given it is no longer obliged to deliver documents to the registrar in respect of that branch."

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11. In Article 646, after “Part XXIII company” there shall be inserted “to which Article 641 applies”.

### **Penalties for non-compliance**

12. In Article 647 the following is inserted as paragraph (3)—

“(3) If a Part XXIII company fails to comply with Article 645A or Schedule 20A, the company and every officer or agent of the company who knowingly and wilfully authorises or permits the default is liable to a fine, and in the case of a continuing offence, to a daily default fine for continued contravention.”.

### **Interpretation**

13.—(1) Article 648 shall be amended as follows.

(2) The existing provision shall become paragraph (1) and the words “for this Chapter” shall be omitted from the heading.

(3) The following is inserted as paragraph (2):

“(2) For the purposes of this Part (except Article 648A and Schedule 20C):

- (a) where a branch comprises places of business in more than one part of the United Kingdom the branch shall be treated as being situated in that part of the United Kingdom where its principal place of business is situated; and
- (b) “branch” means a branch within the meaning of the Council Directive concerning disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State (the Eleventh Company Law Directive, [89/666/EEC](#)).”.

## **Part II**

### **Delivery of Accounts and reports**

14. Chapter II of Part XXIII(15) shall be amended as mentioned in paragraphs 15 to 17.

15. After Article 648A there shall be inserted—

#### **“Companies to which the Eleventh Company Law Directive applies**

648AA.—(1) This Article applies to any limited company which—

- (a) is incorporated outside the United Kingdom and Gibraltar
- (b) has a branch in Northern Ireland, and
- (c) is not an institution to which Article 648A applies.

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

16. In Article 648(B)(16), there shall be inserted at the end “or to any limited company which is incorporated outside the United Kingdom and Gibraltar and has a branch in the United Kingdom”.

17. After Schedule 20C there shall be inserted—

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(15) Chapter II of Part XXIII was substituted for the existing chapter of that number by Article 25 of, and paragraph 18 of Schedule 10 to, the Companies (Northern Ireland) Order 1990

(16) Article 648B is inserted into the 1986 Order by regulation 2



“SCHEDULE 20D

Article 648AA

**Delivery of Reports and Accounts: Companies to which the Eleventh Company Law Directive applies**

**Part I**

**Companies required to make disclosure under Parent Law**

**Scope of Part**

1. This Part applies to any company to which Article 648AA applies which is required by its parent law to prepare, have audited and disclose accounts.

**Duty to deliver copies in Northern Ireland**

2.—(1) This paragraph applies in respect of each branch which a company to which this part applies has in Northern Ireland.

(2) The Company shall deliver to the registrar for registration in respect of the branch copies of all the accounting documents prepared in relation to a financial period of the company which are disclosed in accordance with its parent law on or after the end of the period allowed for compliance in respect of the branch with paragraph 1 of Schedule 20A or, if earlier, the date on which the company complies with that paragraph in respect of the branch.

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

(4) If any document, a copy of which is delivered under sub-paragraph (2), is in a language other than English, the company shall annex to the copy delivered a translation of it into English, certified in the prescribed manner to be a correct translation.

3. Paragraph 2 shall not require documents to be delivered in respect of a branch if—

- (a) before the end of the period allowed for compliance with that paragraph, they are delivered in respect of another branch in the United Kingdom, and
- (b) the particulars registered under Schedule 20A in respect of the branch indicate an intention that they are to be registered in respect of that other branch and include the details of that other branch mentioned in paragraph 4(b) of that Schedule.

**Time for delivery**

4. The period allowed for delivery, in relation to a document required to be delivered under paragraph 2, is 3 months from the date on which the document is first disclosed in accordance with the company’s parent law.

**Penalty for non-compliance**

5.—(1) If a company fails to comply with paragraph 2 before the end of the period allowed for compliance, it, and every person who immediately before the end of that period was a director of it, is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.

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(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.

### **Interpretation**

6.—(1) In this Part—

“financial period”, in relation to a company, means a period for which the company is required or permitted by its parent law to prepare accounts;

“parent law”, in relation to a company, means the law of the country in which the company is incorporated;

and references to disclosure are to public disclosure.

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

- (a) the accounts of the company for the period, including, if it has one or more subsidiaries, any consolidated accounts of the group.
- (b) any annual report of the directors 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).

## **Part II**

### **Companies not required to make disclosure under Parent Law**

#### **Scope of Part**

7. This Part applies to any company to which Article 648AA applies which is not required by the law of the country in which it is incorporated to prepare, have audited and to disclose publicly accounts.

#### **Preparation of accounts and reports**

8. A company to which this Part applies shall in respect of each financial year of the company prepare the like accounts and directors' report, and cause to be prepared such an auditors' report as would be required if the company were a company to which Article 649(17) applied.

9. Articles 231 to 233 (financial year and accounting reference periods) apply to a company to which this Part applies subject to the following modifications—

- (a) for the references to the incorporation of the company there shall be substituted references to the company becoming a company to which this Part applies, and
- (b) Article 233(4) (restriction on frequency with which current accounting reference period may be extended) shall be omitted.

#### **Duty to delivery accounts and reports**

10.—(1) A company to which this Part applies shall in respect of each financial year of the company deliver to the registrar copies of the accounts and reports prepared in accordance with paragraph 8.

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(17) Article 649 of the 1986 Order was substituted by Article 25 of, and paragraph 18 of Schedule 10 to, the Companies (Northern Ireland) Order 1990

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(2) If any document comprised in those accounts or reports is in a language other than English, the company shall annex to the copy delivered a translation of it into English, certified in the prescribed manner to be a correct translation.

(3) A company required to deliver documents under this paragraph in respect of a financial year shall deliver them in respect of each branch which it has in Northern Ireland at the end of that year.

(4) Sub-paragraph (3) is without prejudice to Article 645A.

11. Paragraph 10 shall not require documents to be delivered in respect of a branch if—

- (a) before the end of the period allowed for compliance with that paragraph, they are delivered in respect of another branch in the United Kingdom, and
- (b) the particulars registered under paragraph 1 of Schedule 20A in respect of the branch indicate an intention that they are to be registered in respect of that other branch and include the details of that other branch mentioned in paragraph 4(b) of that Schedule.

### **Time for delivery**

12.—(1) The period allowed for delivery accounts and reports under paragraph 10 is 13 months after the end of the relevant accounting reference period, subject to the following provisions of this paragraph.

(2) If the relevant accounting reference period is the company's first and is a period of more than 12 months, the period allowed is 13 months from the first anniversary of the company's becoming a company to which this Part applies.

(3) If the relevant accounting reference period is treated as shortened by virtue of a notice given by the company under Article 233, the period allowed is that applicable in accordance with the above provisions or three months from the date of the notice under that Article, whichever last expires.

(4) If for any special reason the Department thinks fit it may, on an application made before the expiry of the period otherwise allowed, by notice in writing to a company to which this Part applies extend that period by such further period as may be specified in the notice.

(5) In this paragraph "the relevant accounting reference period" means the accounting reference period by reference to which the financial year for the accounts in question was determined.

### **Penalty for non-compliance**

13.—(1) If the requirements of paragraph 10 are not complied with before the end of the period allowed for delivering accounts and reports, or if the accounts and reports delivered do not comply with the requirements of this Order, the company and every person who immediately before the end of that period was a director of the company 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 such an offence to prove that he took all reasonable steps for securing that the requirements in question would be complied with.

(3) It is not a defence in relation to a failure to deliver copies to the registrar to prove that the documents in question were not in fact prepared as required by this Order."

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## Part III

### Winding up, etc.

18. At the end of Part XXIII there shall be inserted—

## “CHAPTER IV

### Winding up, etc.

#### **Scope of Chapter**

652N. This Chapter applies to any company to which Article 640A applies.

#### **Particulars to be delivered to the registrar: winding up**

652O.—(1) Subject to paragraph (8), where a company to which this Chapter applies is being wound up, it shall deliver to the registrar for registration a return in the prescribed form containing the following particulars—

- (a) the name of the company;
- (b) whether the company is being wound up by an order of a court and, if so, the name and address of the court and the date of the order;
- (c) if the company is not being so wound up, as a result of what action the winding up has commenced;
- (d) whether the winding up has been instigated by:
  - (i) the company’s members;
  - (ii) the company’s creditors; or
  - (iii) some other person or persons,and, in the case of (iii) the identity of that person or those persons shall be given; and
- (e) the date on which the winding up became or will become effective.

(2) The period allowed for delivery of a return under paragraph (1) is 14 days from the date on which the winding up begins.

(3) Subject to paragraph (8), a person appointed to be the liquidator of a company to which this Chapter applies shall deliver to the registrar for registration a return in the prescribed form containing the following particulars—

- (a) his name and address,
- (b) the date of his appointment, and
- (c) a description of such of his powers, if any, as are derived otherwise than from the general law of the company’s constitution.

(4) The period allowed for delivery of a return under paragraph (3) is 14 days from the date of the liquidator’s appointment.

(5) Subject to paragraph (8), the liquidator of a company to which this Chapter applies shall deliver to the registrar for registration a return in the prescribed form upon the occurrence of the following events—

- (a) the termination of the winding up of the company, and

- (b) the company ceasing to be registered, in circumstances where ceasing to be registered is an event of legal significance.

The following particulars shall be given:

- (i) in the case of (a), the name of the company and the date on which the winding up terminated; and
- (ii) in the case of (b), the name of the company and the date on which the company ceased to be registered.

(6) The period allowed for delivery of a return under paragraph (5) is 14 days from the date of the event concerned.

(7) The obligation to deliver a return under paragraph (1), (3) or (5) shall apply in respect of each branch which the company has in Northern Ireland (though where the company has more than one branch in Northern Ireland a return which gives the branch numbers of two or more such branches is to be regarded as a return in respect of each branch whose number is given).

(8) No return is required under paragraph (1), (3) or (5) in respect of a winding up under Part VI of the Insolvency (Northern Ireland) Order 1989(18) .

**Particulars to be delivered to the registrar: insolvency proceedings etc.**

652P.—(1) Where a company to which this Chapter applies becomes subject to any of the following proceedings (other than proceedings for the winding up of the company), that is to say, insolvency proceedings or an arrangement or composition or any analogous proceedings, it shall deliver to the registrar for registration a return in the prescribed form containing the following particulars—

- (a) the name of the company;
- (b) whether the proceedings are by order of a court and, if so, the name and address of the court and the date of the order;
- (c) if the proceedings are not by order of a court, as a result of what action the proceedings have been commenced;
- (d) whether the proceedings have been instigated by:
  - (i) the company's members;
  - (ii) the company's creditors; or
  - (iii) some other person or persons,and, in the case of (iii) the identity of that person or those persons shall be given; and
- (e) the date on which the proceedings became or will become effective.

(2) Where a company to which this Chapter applies ceases to be subject to any of the proceedings mentioned in paragraph (1) it shall deliver to the registrar for registration a return in the prescribed form containing the following particulars:

- (a) the name of the company; and
- (b) the date on which it ceased to be subject to the proceedings.

(3) The period allowed for delivery of a return under sub-paragraph (1) or (2) is 14 days from the date on which the company becomes subject to the proceedings concerned.

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(4) The obligation to deliver a return under this Article shall apply in respect of each branch which the company has in Northern Ireland (though where the company has more than one branch in Northern Ireland a return which gives the branch number of two or more such branches is to be regarded as a return in respect of each branch whose number is given).

### **Penalty for non-compliance**

652Q.—(1) If a company fails to comply with Article 652O(1) or 652P(1) or (2) within the period allowed for compliance, it, and every person who immediately before the end of that period was a director of it, is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.

(2) If a liquidator fails to comply with Article 652O(3) or (5) within the period allowed for compliance, he is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.

(3) It is a defence for a person charged with an offence under this Article to prove that he took all reasonable steps for securing compliance with the requirements concerned.”.

## SCHEDULE 3

Regulation 4

### **Consequential Amendments**

#### **Civil Aviation Act 1982 (c. 16)**

1. In section 23(3) of the Civil Aviation Act 1982 (when reasonable inquiries to find a body corporate deemed to have been made)(19) in paragraph (b) for the words from “made” to the end there shall be substituted

“made—

- (i) at every address registered in respect of that company for the purposes of section 691(1)(b) (ii) of the said Act of 1985 or, as the case may be, at every address for service registered in respect of that company under Schedule 2A to that Act, and
- (ii) at every address registered in respect of that company for the purposes of Article 641(1)(b) (ii) of the said Order of 1986 or, as the case may be, at every address for service registered in respect of a branch of that company under Schedule 20A to that Order.”.

#### **Insurance Companies Act 1982 (c. 50)**

2. In section 87(2) of the Insurance Companies Act 1982 (application of provisions to insurance companies)(20) for paragraph (c) there shall be substituted—

“(c) Articles 641, 642, 643(1) and (2), 645, 646 to 648, 649 to 652 and 657 of the Companies (Northern Ireland) Order 1986.”.

#### **Companies (Northern Ireland) Order 1986**

3. The 1986 Order shall be amended as mentioned in paragraphs 4 to 8.

(19) 1982 (c. 16) as amended by the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (S.I. 1986/1035 (N.I. 9))

(20) 1982 (c. 50) as amended by the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986

4. In Article 654(5)(21) there shall be inserted the following before paragraph (a):

“(za) any Part XXIII company which has complied with paragraph 1 of Schedule 20A other than a company which appears to the registrar not to have a branch in Northern Ireland;”

5. In Articles 655(2)(a) and 656(4)(a) (documents required to be delivered to the registrar to state company’s registered number)(22) there shall be inserted at the end “and, if the document is delivered under Article 645A, 652O or 652P or Schedule 20A or 20D, the registered number of the branch to which it relates,”.

6. In Article 660(1) (public notice by registrar of receipt of certain documents)(23) there shall be inserted at the end—

- “(u) any return delivered under paragraph 1, 7 or 8 of Schedule 20A (branch registration),
- (v) any document delivered under paragraph 1 or 8 of that Schedule,
- (w) any notice under Article 645A of the closure of a branch,
- (x) any document delivered under Schedule 20C (accounts and reports of foreign credit and financial institutions),
- (y) any document delivered under Schedule 20D (accounts and reports of Part XXIII companies subject to branch registration, other than credit and financial institutions),
- (z) any return delivered under Article 652O (particulars of winding up of Part XXIII companies subject to branch registration).”.

7. In Article 663(1) (registrar’s index of company and corporate names) after sub-paragraph (a) there shall be inserted—

“(aa) companies incorporated outside the United Kingdom and Gibraltar which have complied with paragraph 1 of Schedule 20A and which do not appear to the registrar not to have a branch in Northern Ireland.”.

8.—(1) Schedule 23 (punishment of offences) shall be amended as follows.

(2) The following entries shall be inserted at the appropriate places—

“647(3)	Part XXIII company failing to comply with Article 645A or Schedule 20A.	Summary.	For an offence which is not a continuing offence, a fine of £400.	£40.
652Q(1)	Company failing to register winding up or commencement of insolvency proceedings etc.	1. On indictment. 2. Summary.	A fine. A fine of £2,000.	£100.
652Q(2)	Liquidator failing to register appointment, termination of	1. On indictment. 2. Summary.	A fine. A fine of £2,000.	£100.

(21) Article 654 was inserted into the 1986 Order by Article 78 of, and paragraph 13 of Schedule 5 to, the Companies (No. 2) (Northern Ireland) Order 1990

(22) Articles 655 and 656 were substituted by Article 59 of the Companies (No. 2) (Northern Ireland) Order 1990

(23) Article 660 of the 1986 Order was amended by regulation 3 of the Companies (Mergers and Divisions) Regulations (Northern Ireland) 1987, [S.R. 1987 No. 442](#)

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	winding up or striking-off of company.			
Sch. 20C, Part I, para 6.	Credit or financial institution failing to deliver accounting documents.	1. On indictment.	A fine.	£100.
		2. Summary.	A fine of £2,000.	
Sch. 20C, Part II, para. 13.	Credit or financial institution failing to deliver accounts and reports.	1. On indictment.	A fine.	£100.
		2. Summary.	A fine of £2,000.	
Sch. 20D, Part I, para. 5	Company failing to deliver accounting documents.	1. On indictment.	A fine.	£100.
		2. Summary.	A fine of £2,000.	
Sch. 20D, Part II, Para. 13.	Company failing to deliver accounts and reports.	1. On indictment.	A fine.	£100.”.
		2. Summary.	A fine of £2,000.	

### **Banking Act 1987 (c. 22)**

9.—(1) Section 79 of the Banking Act 1987 (duty to provide information and documents) shall be amended as follows.

(2) In subsection (2) after paragraph (a) there shall be inserted—

“(aa) in the case of an overseas institution to which section 690A of that Act or Article 640A of that Order applies, copies of the documents which it is required to deliver for registration in accordance with paragraph 1(1) or (2) of Schedule 21A to that Act or paragraph 1(1) or (2) of Schedule 20A to that Order.”.

(3) In subsection (5)—

(a) for “section 692 or 696(4) of the said Act of 1985 or Article 642 or 646 of the said Order of 1986” there shall be substituted “section 692, 695A(3) or 696 of, or paragraph 7 or 8 of Schedule 21A to the said Act of 1985 or Article 642, 645A or 646 of, or paragraph 7 or 8 of Schedule 20A to the said Order or 1986”;

(b) for “that section or Article applied)” there shall be substituted “that section, paragraph or Article applied)”.

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

10. Schedule 1 to the Companies (No. 2) (Northern Ireland) Order 1990 (which prospectively inserts new Articles 652A to 652M into the 1986 Order) shall be amended as mentioned in paragraphs 11 to 13.

11. In the new Article 652A(3) (definition of “registered Part XXIII company”), prospectively inserted by Schedule 1, after “which” there shall be inserted—

“(a) has duly delivered documents under paragraph 1 of Schedule 20A to the registrar and has not subsequently given notice to him under Article 645A that it has closed the branch in respect of which the documents were registered, or

(b)”



12. In the new Article 652B(2) (date for determining whether a charge requires registration), prospectively inserted by Schedule 1, for paragraph (a) there shall be substituted—

“(a) in the case of a charge over property of a company at the date when it becomes a registered Part XXIII company, as at that date.”

13.—(1) The new Article 652D (duty to deliver particulars of charges for registration), prospectively inserted by Schedule 1, shall be amended as follows.

(2) In paragraph (1), for “delivers documents for registration under Article 641” there shall be substituted—

“(a) delivers documents for registration under paragraph 1 of Schedule 20A for the first time since becoming a company to which Article 640A applies, or

(b) delivers documents for registration under Article 641.”

(3) After that paragraph there shall be inserted—

“(1A) Paragraph (1) does not apply in relation to a charge if—

(a) the particulars of it required to be delivered under that paragraph have already been so delivered to the registrar, and

(b) the company has at all times since they were so delivered to him been a registered Part XXIII company”.

## SCHEDULE 4

Regulation 5

### Transitional Provisions

#### Branch Registration

1.—(1) This paragraph applies to any limited company incorporated outside the United Kingdom and Gibraltar which, immediately after 7th June 1993, has a branch in Northern Ireland which it had there immediately before 8th June 1993.

(2) A company to which this paragraph applies shall be treated for the purposes of paragraph 1(1) of Schedule 20A to the 1986 Order as having opened on 8th June 1993 any branch which it has in Northern Ireland immediately after 7th June 1993 and had there immediately before 8th June 1993.

(3) Where a company to which this paragraph applies was registered Part XXIII company immediately before 8th June 1993, paragraph 1(1) of Schedule 20A to the 1986 Order shall have effect in its application by virtue of sub-paragraph (2), with the substitution for “one month” of “six months”.

(4) For the purposes of sub-paragraph (3) a company is a registered Part XXIII company if it has duly delivered documents to the registrar under Article 641 of the 1986 Order and has not subsequently given notice to him under Article 646 of that Order that it has ceased to have an established place of business in Northern Ireland.

(5) Subject to sub-paragraph (6) Articles 641 and 642 of the 1986 Order shall continue to apply to a company to which this paragraph applies (notwithstanding Article 640B of that Order) until such time as it has—

(a) complied with paragraph 1 of Schedule 20A to the 1986 Order in respect of a branch, or

(b) ceased to have a branch in Northern Ireland.

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(6) Articles 641 and 642 of the 1986 Order shall not however apply to any company to which this paragraph applies, if the company had no place of business in Northern Ireland immediately prior to 8th May 1993.

(7) For the purposes of this paragraph “branch” has the same meaning as in Article 648(2) of the 1986 Order.

2.—(1) This paragraph applies to any limited company incorporated outside the United Kingdom and Gibraltar which—

(a) has an established place of business in Northern Ireland both immediately before 8th June 1993 and immediately after 7th June 1993, and

(b) does not have a branch there immediately after 7th June 1993.

(2) Where, immediately after 7th June 1993, a company to which this paragraph applies has a branch elsewhere in the United Kingdom, Article 641 and 642 of the 1986 Order shall continue to apply to the company (notwithstanding Article 640B of that Order) until such time as it gives the registrar notice of the fact that it is a company to which Article 640A applies.

(3) In sub-paragraph (2), “registrar” has the same meaning as in the 1986 Order.

(4) For the purposes of this paragraph “branch” has the same meaning as in Article 648(2) of the 1986 Order and whether a branch is in England and Wales or Scotland or Northern Ireland is to be determined in accordance with that Article.

3.—(1) Where—

(a) a company to which paragraph 1 applies delivers a return under paragraph 1(1) of Schedule 20A to the 1986 Order in respect of a branch,

(b) the return is the first which the company has delivered under that provision in respect of a branch in Northern Ireland,

(c) immediately before delivering the return, the company was a registered Part XXIII company, and

(d) the company states in the return that the particulars have previously been delivered in respect of a place of business of the company, giving the company’s registered number,

the documents previously registered under Article 641(1)(a) of that Order shall be treated as registered under paragraph 1 of Schedule 20A to that Order in respect of the branch to which the return relates.

(2) For the purposes of this paragraph, a company is a registered Part XXIII company if—

(a) it has duly delivered documents to the registrar under Article 641 of the 1986 Order,

(b) it has duly complied with any obligation to make a return to the registrar under Article 642(1)(a) of that Order, and

(c) it has not subsequently given notice to the registrar under Article 646 of that Order that it has ceased to have an established place of business in Northern Ireland.

(3) For the purposes of this paragraph “branch” has the same meaning as in Article 648(2) of the 1986 Order.

#### **Delivery of accounts and reports: institutions and companies previously subject to Article 649**

4.—(1) This paragraph applies to any company which—

(a) immediately after 7th June 1993, is an institution to which Part I of Schedule 20C to the 1986 Order applies, and

(b) immediately before 8th June 1993, was a company to which Article 649 of that Order applies.

(2) Notwithstanding Article 648B of the 1986 Order, Articles 649 to 652 of that Order shall continue to apply in relation to any financial year of a company to which this paragraph applies beginning before 8th June 1993.

(3) Schedule 20C to the 1986 Order shall only have effect to require a company to which this paragraph applies to deliver accounting documents for registration if they have been prepared with reference to a period ending after the end of the last financial year of the company in relation to which Articles 649 to 652 of that Order apply.

(4) In this paragraph, “financial year” has the same meaning as in Article 649 of the 1986 Order.

5.—(1) This paragraph applies to any company which—

(a) immediately after 7th June 1993, is an institution to which Part II of Schedule 20C to the 1986 Order applies, and

(b) immediately before 8th June 1993, was a company to which Article 649 of that Order applies.

(2) Paragraphs 9 and 11(1) of Schedule 20C to the 1986 Order shall have effect, in relation to any company to which this paragraph applies, with the insertion after “each financial year of the institution” of “ending after 7th June 1993”.

(3) Any date which, immediately before 8th June 1993, is established for the purposes of Articles 232 and 233 of the 1986 Order, as applied by Article 650 of that Order, as the accounting reference date of a company to which this paragraph applies shall, immediately after 7th June 1993, be treated as established as the accounting reference date of the company for the purposes of those Articles, as applied by paragraph 10 of Schedule 20C to that Order.

(4) In their application to a company to which this paragraph applies, paragraphs 10(a) and 12(2) of Schedule 20C to the 1986 Order shall have effect with the substitution for “becoming an institution to which this Part applies” of “establishing a place of business in Northern Ireland”.

6.—(1) This paragraph applies to any company which—

(a) immediately after 7th June 1993, is a company to which Part I of Schedule 20D to the 1986 Order applies, and

(b) immediately before 8th June 1993, was a company to which Chapter II of Part XXIII of that Order applies.

(2) Notwithstanding Article 648B of the 1986 Order, Articles 649 to 652 of that Order shall continue to apply in relation to any financial year of a company to which this paragraph applies beginning before 8th June 1993.

(3) Schedule 20D to the 1986 Order shall only have effect to require a company to which this paragraph applies to deliver accounting documents for registration if they have been prepared with reference to a period ending after the end of the last financial year of the company in relation to which Articles 649 to 652 of that Order apply.

(4) In this paragraph, “financial year” has the same meaning as in Article 649 of the 1986 Order.

7.—(1) This paragraph applies to any company which—

(a) immediately after 7th June 1993, is a company to which Part II of Schedule 20D to the 1986 Order applies, and

(b) immediately before 8th June 1993, was a company to which Article 649 of that Order applies.

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(2) Paragraphs 8 and 10(1) of Schedule 20D to the 1986 Order shall have effect, in relation to a company to which this paragraph applies, with the insertion after “each financial year of the company” of “ending after 7th June 1993”.

(3) Any date which, immediately before 8th June 1993, is established for the purposes of Articles 232 and 233 of the 1986 Order, as applied by Article 650 of that Order, as the accounting reference date of a company to which this paragraph applies shall, immediately after 7th June 1993, be treated as established as the accounting reference date of the company for the purposes of those Articles, as applied by paragraph 9 of Schedule 20D to that Order.

(4) In their application to a company to which this paragraph applies, paragraphs 9(a) and 12(2) of Schedule 20D to the 1986 Order shall have effect with the substitution for “becoming a company to which this Part applies” of “establishing a place of business in Northern Ireland”.

### **Delivery of accounts and reports: other institutions and companies**

8.—(1) This paragraph applies to an institution to which Part I of Schedule 20C applies and to a company to which Part I of Schedule 20D applies, other than a company to which paragraphs 4 to 7 apply.

(2) Paragraph 1(2) of Schedule 20A and the provisions of Schedules 20C and 20D to the 1986 Order shall only have effect to require a company to which this paragraph applies to deliver accounting documents for registration if they have been prepared with reference to a period commencing on or after 8th June 1993.

### **References to statutory provisions and continuance of law**

9.—(1) Any reference in any statutory provision (within the meaning of section 1(f) of the Interpretation Act (Northern Ireland) 1954) to any provision in Part XXIII of the 1986 Order as unamended by these Regulations shall be construed as including a reference to the corresponding provision inserted by these Regulations with respect to companies to which Articles 640A and 648A or (as the case may be) Article 648AA of that Order applies, unless the context otherwise requires.

(2) This provision made by this paragraph is without prejudice to the operation of the Interpretation Act (Northern Ireland) 1954 or to any amendments effected by Schedule 3.

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations.)*

1. These Regulations implement, through a number of amendments to the Companies (Northern Ireland) Order 1986 (“the Order”), Council Directive [89/666/EEC](#) (the “Eleventh Company Law Directive”) on the disclosure requirements in respect of branches opened by certain companies in a Member State (OJ No. L395, 30.12.89, pp. 36-39) and Council Directive [89/117/EEC](#) (the “Bank Branches Directive”) on publication of annual accounting documents by credit and financial institutions (OJ No. L44 16.2.89, pp. 40-42).

2. The Eleventh Company Law Directive deals with disclosures (including disclosure of accounting documents) required to be made by branches established in a Member State of limited companies incorporated in another Member State or a non-EC country. The Bank Branches Directive

complements this by establishing special rules on the disclosure of accounting documents of a branch of a credit or financial institution in a Member State which has its head office outside that state.

3. The branch registration regime created by these Regulations complements the existing place of business registration regime set out in Part XXIII of the Order. If a company within the scope of the Eleventh Directive establishes a place of business that is not a branch and has no other branch in the United Kingdom, it will be subject to the place of business registration regime. That regime will also remain applicable to companies not within the scope of the Eleventh Directive.

4. Regulation 2 and Schedule 1 implement the Bank Branches Directive by inserting new Articles 648A and 648B, together with a new Schedule 20C, into the Order. Article 648A applies the new accounts disclosure requirements of Schedule 20C to a branch (as defined), established in Northern Ireland, of a credit or financial institution (as defined) which is incorporated outside the United Kingdom or Gibraltar and also has its head office outside those places. Article 648B disapplies the accounting disclosure requirements of Articles 649 to 652, applicable to companies subject to the place of business registration regime, to any institution to which Article 648A applies. Schedule 20C sets out the requirements for delivery of reports and accounts of credit and financial institutions to which the Bank Branches Directive applies. Part I of the Schedule applies to an institution which is required by its parent law to prepare and have audited accounts for its financial period, and whose principal or only branch within the United Kingdom is in Northern Ireland. Such institutions are required to deliver to the registrar of companies all the accounting documents (with certified translations, if necessary), which it prepares in accordance with its parent law (modified where permitted). Where the parent law does not require registration of these documents, the institution may instead make the documents available for inspection at each branch of the institution in Northern Ireland and make copies available on request. Part II of the Schedule applies to incorporated institutions which are not required by the law of the country in which the head office resides to prepare and have audited accounts. Such an institution is required to prepare accounts and directors' report as if it were a company to which Article 649 applies (which sets out the accounting regime for companies subject to place of business registration).

5. Regulation 3 and Schedule 2 implement the Eleventh Company Law Directive. Regulation 3 inserts new Article 654A into the Order, which requires the establishment and maintenance of a register of branches of Part XXIII companies. Schedule 2 makes a number of amendments to Part XXIII of the Order, the most important of which are:

- (a) Paragraph 2 of Schedule 2 inserts new Articles 640A and 640B into the Order. Article 640A imposes the branch registration requirements of the new Schedule 20A on any limited company which is incorporated outside the United Kingdom and Gibraltar and which has a branch in Northern Ireland. Article 640B provides that the requirements of Article 641 (place of business registration regime) shall not apply to a limited company in which Articles 640A applies.
- (b) Paragraph 3 of Schedule 2 insert Schedule 20A into the Order, which sets out the particulars which must be disclosed by a company registering a branch. A return must also be made in respect of any alterations to any particulars registered.
- (c) Paragraphs 4 and 5 of Schedule 2 insert Article 642A and Schedule 20B into the Order which provide for certain transitional arrangements where a company moves from the place of business registration regime to the branch registration regime and vice versa.
- (d) Paragraph 6 of Schedule 2 amends Article 643 of the Order by setting out certain particulars which must be disclosed about a branch and the company on the letter-heads etc used in the business of the branch. Additional particulars must be disclosed where the company is not one incorporated in an EC Member State.
- (e) Paragraph 8 of Schedule 2 inserts Article 644A into the Order, which makes parallel provision for service of documents to that made by existing Article 645 in respect of companies subject to the place of business registration regime.

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- (f) Paragraph 10 of Schedule 2 inserts Article 645A into the Order which provides that if a branch is closed notice must be given of that fact to the registrar.
  - (g) Paragraph 13 of Schedule 2 amends Article 648 of the Order so as to provide for the interpretation of “branch” for the purposes of the branch registration regime and to provide a rule to determine in which part of the United Kingdom a branch is to be regarded as located where it comprises places of business in more than one such part.
  - (h) Paragraph 17 of Schedule 2 inserts Schedule 20D into the Order. It sets out the reports and accounts which must be delivered by a company subject to branch registration in respect of a branch, other than a branch which is subject to Schedule 20C. Part I of the Schedule applies to companies which are required by their parent law to prepare, have audited and disclose accounts. Such companies must deliver to the registrar all accounting documents (modified where permitted), and certified translations where necessary, disclosed in accordance with the parent law. Delivery is not required in respect of a branch where those documents have been delivered by the company in respect of another branch in the United Kingdom and where this fact has been disclosed by the branch in its return under Schedule 20A. Part II applies to companies that do not have such requirements under their parent law. Such companies are required to prepare accounts, a directors' report and an auditors' report as if they were a company to which Article 649 applies. As with Part 1, provision is made for these documents to be returned by a company in respect of more than one branch.
  - (i) Paragraph 18 of Schedule 2 inserts Articles 652N to 652Q into the Order. These Articles require particulars to be delivered in respect of winding up or other insolvency proceedings against a company which is subject to the branch registration regime. Article 652O requires a return to be made where such a company is being wound up, where a liquidator is appointed, and upon the termination of the winding up. Returns are not required, however, where winding up proceedings under Part VI of the Insolvency (Northern Ireland) Order 1989 have been commenced (as that Order contains separate requirements to file returns with the registrar of companies), Article 652P requires a return where insolvency proceedings, other than for the winding up of the company, are commenced. If the company ceases to be the subject to such proceedings a further return is required.
6. Regulation 4 and Schedule 3 make a number of amendments consequential upon the implementation of the two Directives.
7. Regulation 5 and Schedule 4 set out transitional arrangements.