

1994 No. 429

INSURANCE

The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations (Northern Ireland) 1994

Made 2nd November 1994

Coming into operation 16th December 1994

The Department of Economic Development, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the drawing up, auditing and publication of accounts by insurance undertakings, in exercise of the powers conferred on it by the said section 2(2) and of every power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations (Northern Ireland) 1994, and shall come into operation on 16th December 1994.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these Regulations—

“the 1986 Order” means the Companies (Northern Ireland) Order 1986(d);

“director” includes, in the case of a body which is not a company, any corresponding officer of that body;

“industrial and provident society” means a registered society within the meaning given by section 101 of the Industrial and Provident Societies Act (Northern Ireland) 1969(e);

“qualifying body” shall be construed in accordance with paragraphs (3) and (4);

(a) By S.I. 1992/2870

(b) 1972 c. 68; section 2 is subject to Schedule 2 of that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.R. 1984 No. 253

(c) 1954 c. 33 (N.I.)

(d) S.I. 1986/1032 (N.I. 6); the 1986 Order, and in particular Part VIII of that Order dealing with accounts and audit, has been substantially amended by the Companies (Northern Ireland) Order 1990 (S.R. 1990 No. 593 (N.I. 5)) and by the Companies (1986 Order) (Insurance Companies Accounts) Regulations (Northern Ireland) 1994 (S.R. 1994 No. 428)

(e) 1969 c. 24 (N.I.)

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

and other expressions shall have the meanings ascribed to them by the 1986 Order.

(3) Subject to paragraph (4), a body incorporated in or formed under the law of Northern Ireland is a qualifying body for the purpose of these Regulations if it—

- (a) is incorporated by or registered under any enactment;
- (b) is required to be authorised under section 2 of the Insurance Companies Act 1982(a); and
- (c) is not required by any statutory provision to prepare accounts under Part VIII of the 1986 Order (Accounts and audit).

(4) A body is not a qualifying body for the purposes of these Regulations if it—

- (a) is excluded from the scope of Council Directive 73/239/EEC(b) by Article 3 of that Directive; or
- (b) is referred to in Article 2(2) or (3) or 3 of Council Directive 79/267/EEC(c).

(5) Any reference in these Regulations to the accounts required by or prepared under regulation 3 is a reference to the annual accounts, the annual report and the auditors’ report required by or prepared under paragraph (1) of that regulation.

Preparation of accounts by qualifying bodies

3.—(1) The directors of a qualifying body shall in respect of each financial year of the body—

- (a) prepare the like annual accounts and annual report; and
- (b) cause to be prepared such an auditors’ report;

as would be required under the provisions mentioned in paragraph (3) if the body were an insurance company formed and registered under the 1986 Order.

(2) The accounts required by this regulation—

- (a) shall be prepared within the period of 7 months beginning immediately after the end of the body’s financial year;
- (b) shall state that they are prepared under this regulation; and
- (c) shall comply with such of the requirements of the provisions mentioned in paragraph (3) as relate to the contents of accounts or reports subject, where the qualifying body is unincorporated, to any necessary modifications to take account of that fact.

(a) 1982 c. 50

(b) O.J. No. L228, 16.8.1973, p. 3

(c) O.J. No. L63, 13.3.1979, p. 1

(3) The provisions referred to in paragraphs (1) and (2) are the following provisions of Part VIII of the 1986 Order that is to say—

- (a) Articles 234 to 245(a) (Annual accounts and reports);
- (b) Article 250B(b) (Delivery and publication of accounts in ECUs);
- (c) Articles 263 and 263A(c) (Banking and insurance companies and groups);
- (d) Schedule 4A(d) (Form and content of group accounts), as modified by Part II of Schedule 9A(e) other than paragraphs 13(3) to (5), 14 and 15;
- (e) Schedule 5(f) (Disclosure of information: related undertakings) other than paragraphs 4, 5, 10, 12, 18, 19 and 29;
- (f) Schedule 6(g) (Disclosure of information: emoluments and other benefits of directors and others) other than paragraphs 2 to 6, 8 and 9;
- (g) paragraph 6 of Schedule 7(h) (Matters to be included in directors' report); and
- (h) Schedule 9A other than paragraphs 10, 56, 61, 63, 64, 65, 70(3)(b), 72(2), 73 and 74, and, in paragraph 2(2), the words from "but the following" to the end.

(4) For the purposes of those provisions as applied to accounts prepared under this regulation, these Regulations shall be regarded as part of the requirements of the 1986 Order.

(5) Part III of the Companies (Northern Ireland) Order 1990 (Eligibility for appointment as auditors) shall apply to auditors appointed for the purposes of this regulation subject, where the body concerned is unincorporated, to any necessary modifications to take account of that fact.

(6) In this regulation "financial year", in relation to a qualifying body, means—

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- (a) Articles 234 to 245 were inserted into the 1986 Order by Articles 6 to 11 of the Companies (Northern Ireland) Order 1990 in place of existing Articles of those numbers
 - (b) Article 250B was inserted into the 1986 Order by regulation 2 of the Companies (1986 Order) (Accounts of Small and Medium-sized Enterprises and Publication of Accounts in ECUs) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 503)
 - (c) Articles 263 and 263A were inserted into the 1986 Order by regulation 3 of the Companies (1986 Order) (Bank Accounts) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 258) in place of existing Articles of those numbers. Article 263A was amended by regulation 4 of the Companies (1986 Order) (Disclosure of Branches and Bank Accounts) Regulations (Northern Ireland) (S.R. 1993 No. 199). Article 263 was amended, and Article 263A further amended by regulations 2 and 3 of the Companies (1986 Order) (Insurance Companies Accounts) Regulations (Northern Ireland) 1994 (S.R. 1994 No. 428)
 - (d) Schedule 4A was inserted into the 1986 Order by Article 7(2) of, and Schedule 2 to, the Companies (Northern Ireland) Order 1990
 - (e) Parts I and II of Schedule 9 to the 1986 Order were formed into a new Schedule numbered 9A by regulation 5(1) of the Companies (1986 Order) (Bank Accounts) Regulations (Northern Ireland) 1992. Regulation 4 of, and Schedule 1 to, the Companies (1986 Order) (Insurance Companies Accounts) Regulations (Northern Ireland) 1994 has substituted a new Schedule 9A
 - (f) Schedule 5 was substituted by Article 8(2) of, and Schedule 3 to, the Companies (Northern Ireland) Order 1990
 - (g) Schedule 6 was amended by Article 8(4) of, and Schedule 4 to, the Companies (Northern Ireland) Order 1990
 - (h) Schedule 7 was amended by Article 10(2) of, and Schedule 5 to, the Companies (Northern Ireland) Order 1990

- (a) any period in respect of which a profit and loss account, or in the case of an industrial and provident society, an annual return, of the body is required to be made up by or in accordance with its constitution or by any statutory provision (whether that period is a year or not); or
- (b) failing any such requirement, each period of 12 months beginning with 1st April.

Publication of accounts

4.—(1) A qualifying body shall—

- (a) make available the latest accounts prepared under regulation 3 for inspection by any person, without charge and during business hours, at the body's head office in Northern Ireland; and
- (b) supply to any person upon request a copy of those accounts (or such part of those accounts as may be requested) at a price not exceeding the administrative cost of making the copy.

(2) In the case of industrial and provident societies which are qualifying bodies, the obligation in paragraph (1)(b) is subject to the provisions of section 48(6) of the Industrial and Provident Societies Act (Northern Ireland) 1969.

Penalties for non-compliance

5.—(1) If the directors of a qualifying body fail to comply with paragraph (1) of regulation 3 within the period referred to in paragraph (2) of that regulation every person who, immediately before the end of that period, was a director of the body is guilty of an offence and liable on summary conviction to a fine not exceeding £2,000.

(2) If accounts which are made available for inspection under regulation 4(1) do not comply with the requirements of regulation 3 every person who, at the time when the accounts were first made available for inspection, was a director of the qualifying body is guilty of an offence and liable on summary conviction to a fine not exceeding £2,000.

(3) If a qualifying body fails to comply with regulation 4(1) the body and every person who, at the time when the failure takes place, is a director of the body is guilty of an offence and liable on summary conviction to a fine not exceeding £2,000.

(4) It is a defence for a person charged with an offence under this regulation to show that he took all reasonable steps for securing that the requirements in question would be complied with.

(5) The following provisions of the 1986 Order(a), that is to say—

- (a) Article 679 (Summary proceedings),
- (b) Article 680A (Offences by bodies corporate), and
- (c) Article 680B (Criminal proceedings against unincorporated bodies),

shall apply to an offence under this regulation.

(a) Articles 680A and 680B were inserted by Article 20(1) of the Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10))

Industrial and provident societies

6.—(1) The Schedule shall have effect for the purpose of modifying the Industrial and Provident Societies Act (Northern Ireland) 1969 in its application to industrial and provident societies which prepare accounts under the provisions of these Regulations.

(2) The Industrial and Provident Societies (Group Accounts) Regulations (Northern Ireland) 1969(a) shall not apply to industrial and provident societies which prepare accounts under the provisions of these Regulations.

Transitional provisions

7.—(1) The directors of a qualifying body need not to prepare accounts in accordance with regulation 3 with respect to a financial year of the body commencing before 23rd December 1994.

(2) Where advantage is taken of paragraph (1), regulation 4 shall not apply to the body.

Sealed with the Official Seal of the Department of Economic Development on 2nd November 1994.

(L.S.)

A. L. Brown

Assistant Secretary

**Modification of the Industrial and Provident Societies Act
(Northern Ireland) 1969**

1. In its application to industrial and provident societies which prepare accounts under the provisions of these Regulations the Industrial and Provident Societies Act (Northern Ireland) 1969 shall have effect subject to modifications made by paragraphs 2 to 5.

2. The following provisions shall not apply—

- (a) section 37 (General provisions as to accounts and balance sheets of societies);
- (b) section 38(2) to (7) (Exemptions from audit for small societies);
- (c) section 41 (Qualified auditors);
- (d) section 42 (Restrictions on appointment of auditors);
- (e) section 43(1) to (4) and (6) (Auditors' report);
- (f) section 45(1) to (5) (Group accounts of societies);
- (g) section 46 (Exemption from requirements in respect of group accounts); and
- (h) section 47 (Meaning of "subsidiary").

3.—(1) For section 9(4) (Amendment of rules by societies), there shall be substituted—

“(4) Notwithstanding anything in the rules of any society, the committee of a registered society may by resolution passed during the appropriate period after the passing of this Act or the commencement of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations (Northern Ireland) 1994, make such amendments of the rules of the society as may be consequential on the provisions of this Act or of those Regulations”.

(2) After section 9(5) there shall be inserted the following subsection—

“(5A) For the purposes of subsection (4) the appropriate period after the commencement of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations (Northern Ireland) 1994 shall be the period of one year beginning with the date of coming into operation of those Regulations”.

4.—(1) In section 48(1) (Annual returns)—

- (a) for the words “not later than 31st March in each year” there shall be substituted the words “within the period of 7 months beginning immediately after the end of the period required by this section to be included in the return”; and
- (b) for the words “relating to its affairs for the period required by this section to be included in the return” there shall be substituted the words “relating to its affairs for that period”.

(2) In section 48(2)—

- (a) in paragraph (a) the reference to the revenue account or accounts of the society shall be construed as a reference to the profit and loss account required to be prepared by Article 234 of the 1986 Order as applied by regulation 3; and
- (b) for paragraph (b) there shall be substituted the following paragraph—
“(b) not contain any other accounts”.

(3) In section 48(4), the words from “and in that case” to the end shall be omitted.

5. In section 101 (Interpretation)—

(a) there shall be inserted at the appropriate places the following definitions—

“ “accounts” means the profit and loss account required to be prepared by Article 234 of the Companies (Northern Ireland) Order 1986 as applied by regulation 3 of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations (Northern Ireland) 1994;

“qualified auditor” means a person eligible for appointment as an auditor of the society under Part III of the Companies (Northern Ireland) Order 1990 as applied by paragraph 3 of Schedule 9 to those Regulations;”;

(b) for the definition of “group accounts” there shall be substituted the following definition—

“ “group accounts” means the accounts required to be prepared by Article 235 of the Companies (Northern Ireland) Order 1986 as applied by regulation 3 of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations (Northern Ireland) 1994”.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

1. These Regulations implement as respects Northern Ireland Council Directive 91/674/EEC (O.J. No. L374 31.12.91 pages 7 to 31) on the annual accounts and consolidated accounts of insurance undertakings, in so far as that Directive is applicable to bodies corporate or unincorporate other than (a) bodies corporate to which Part VIII of the Companies (Northern Ireland) Order 1986 ("the 1986 Order") applies and (b) friendly societies. (The Companies (1986 Order) (Insurance Companies Accounts) Regulations (Northern Ireland) 1994 (S.R. 1994 No. 428)) implement Directive 91/674/EEC in respect of bodies corporate to which Part VIII of the 1986 Order applies;

2. The directors of qualifying bodies for the purposes of the Regulations are required by regulation 3 to prepare annual accounts and an annual report, and to obtain an auditors' report on such accounts, in accordance with the provisions of Part VIII of the 1986 Order which are specified in paragraph (3) and are applicable to insurance companies and groups.

3. Regulation 4 requires the accounts prepared under regulation 3 to be made available for inspection without charge at the qualifying body's head office in Northern Ireland.

4. Regulation 5 makes provision in relation to offences for failure to comply with the Regulations. A person guilty of such an offence is liable on summary conviction to a fine not exceeding £2,000.

5. Regulation 6 and the Schedule make certain modifications of legislation applicable to industrial and provident societies which prepare accounts under the Regulations.

6. Regulation 7 permits the directors of a qualifying body not to prepare annual accounts and an annual report (and obtain an auditors' report on the accounts) under the Regulations for financial years commencing before 23rd December 1994. This transitional provision mirrors the transitional provision in the Companies (1986 Order) (Insurance Companies Accounts) Regulations (Northern Ireland) 1994.

7. A Compliance Cost Assessment of the impact that the Regulations will have on business is available from Registry of Companies, IDB House, 64 Chichester Street, Belfast, BT1 4JX.