
STATUTORY INSTRUMENTS

1993 No. 1819

COMPANIES

**The Disclosure of Interests in Shares
(Amendment) Regulations 1993**

Made - - - - - *20th July 1993*

Coming into force - - - - - *18th September 1993*

Whereas a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament in pursuance of subsection (5) of section 210A of the Companies Act 1985⁽¹⁾; Now, therefore, the Secretary of State, in exercise of the powers conferred by that section, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Disclosure of Interests in Shares (Amendment) Regulations 1993 and shall come into force on the sixtieth day after the day on which they are made.

Amendments of Part VI of the Companies Act 1985

2. Part VI of the Companies Act 1985 shall be amended in accordance with regulations 3 to 9 below.

Section 198

3. In section 198, in subsection (1), for the words “of the interests which he has, or had” there shall be substituted “with respect to his interests (if any)”.

Section 199

- 4.—(1) In section 199, for subsection (2) there shall be substituted the following subsections—
- “(2) Where a person is interested in shares comprised in relevant share capital, then—
- (a) if in some or all of those shares he has interests which are material interests, he has a notifiable interest at any time when the aggregate nominal value of the shares in which those material interests subsist is equal to or more than 3 per cent. of the nominal value of that share capital; and

(1) 1985 c. 6; section 210A was inserted by section 134 of the Companies Act 1989 c. 40.

- (b) he has a notifiable interest at any time when, not having such an interest by virtue of paragraph (a), the aggregate nominal value of the shares in which he has interests (whether or not including material interests) is equal to or more than 10 per cent. of the nominal value of the relevant share capital.
- (2A) For the purposes of this Part, a material interest is any interest other than—
 - (a) an interest which a person authorised to manage investments belonging to another has by virtue of having the management of such investments under an agreement in or evidenced in writing;
 - (b) an interest which a person has by virtue of being the operator of—
 - (i) an authorised unit trust scheme;
 - (ii) a recognised scheme; or
 - (iii) a UCITS (as defined in subsection (8));
 - (c) an interest in shares in a listed company which, if that company were not listed, would fall to be disregarded by virtue of section 209(10); or
 - (d) an interest of another which a person is taken to have by virtue of the application of section 203 or 205, where the interest of that other person falls within paragraph (a), (b) or (c).”
- (2) In subsection (5) of that section, after the words “section 198(1)” there shall be inserted “or (3)”.
- (3) After subsection (5) of that section there shall be inserted the following subsections—
 - “(6) For the purposes of subsection (2A), a person is authorised to manage investments belonging to another if—
 - (a) he is an authorised person under Chapter III of Part I of the Financial Services Act 1986⁽²⁾ and may manage that other’s investments without contravening any prohibition mentioned in subsection (7); or
 - (b) it is an authorised credit institution which may manage that other’s investments without being in breach of its authorisation.
 - (7) The prohibitions referred to in subsection (6)(a) are—
 - (a) any prohibition contained in rules—
 - (i) which make provision of a description mentioned in section 48(2)(a) and (b) of the Financial Services Act 1986; and
 - (ii) which are made by the Secretary of State, the Treasury, a designated agency, a recognised professional body or a recognised self-regulating organisation; and
 - (b) any prohibition imposed under section 65 of that Act.
- (8) In this Part “UCITS” means a collective investment scheme which—
 - (a) is constituted in a member State other than the United Kingdom, and
 - (b) complies with the conditions necessary for it to enjoy the rights conferred by Council Directive 85/611/EEC⁽³⁾ co-ordinating the laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities;

(2) 1986 c. 60.

(3) OJNo. L375, 31.12.85, p.3.

and subsection (8) of section 86 of the Financial Services Act 1986 (meaning of “constituted in a member State”) applies for the purposes of paragraph (a) of this subsection as it applies for the purposes of that section.”

Section 200

5. For section 200 there shall be substituted the following section—

“200 “Percentage level” in relation to notifiable interests.

(1) Subject to the qualifications mentioned below, “percentage level”, in section 199(5) (b), means the percentage figure found by expressing the aggregate nominal value of all the shares comprised in the share capital concerned in which the person has material interests immediately before or (as the case may be) immediately after the relevant time as a percentage of the nominal value of that share capital and rounding that figure down, if it is not a whole number, to the next whole number.

(2) In relation to a notifiable interest which a person has when the aggregate nominal value of the shares in which he is interested is equal to or more than 10 per cent. of the nominal value of that relevant share capital, subsection (1) shall have effect as if for the words “has material interests” there were substituted “is interested”.

(3) Where the nominal value of the share capital is greater immediately after the relevant time than it was immediately before, the percentage level of the person’s interest immediately before (as well as immediately after) that time is determined by reference to the larger amount.”.

Section 202

6.—(1) In section 202, in subsection (2), for paragraph (a) there shall be substituted the following paragraph—

“(a) subject to subsections (2A) and (2B), state the number of shares comprised in that share capital in which the person making the notification knows he had material interests immediately after the time when the obligation arose, or”

(2) After that subsection there shall be inserted the following subsections—

“(2A) Where, immediately after the relevant time, the aggregate nominal value of the shares in which the person making the notification is interested is equal to or more than 10 per cent. of the nominal value of that relevant share capital, subsection (2)(a) shall have effect as if for the words “had material interests” there were substituted “was interested”.

(2B) Nothing in subsection (2) or (2A) requires a notification to state, in relation to any shares, whether the interest of the person making the notification is (or is not) a material interest.”.

Section 206

7.—(1) In section 206, in subsection (3), in paragraph (a), for the words “if he were under the obligation of disclosure with respect to that interest” there shall be substituted “if he were under the wide obligation of disclosure with respect to that interest” and after paragraph (b) there shall be inserted—

“and

(c) except in the circumstance mentioned in subsection (3A), the number of shares (if any) out of the number given under paragraph (a) in which he knows that, immediately after

the time when the obligation to give the notice arose, he had interests (apart from the agreement) which were not material interests.”

(2) After section 206(3) there shall be inserted the following subsections—

“(3A) The circumstance referred to in subsection (3)(c) is that the aggregate nominal value of the shares comprised in relevant share capital in which the person is interested (apart from the agreement) is equal to or more than 10 per cent. of the nominal value of the relevant share capital.

(3B) For the purposes of subsection (3)(a) “the wide obligation of disclosure” means the obligation to disclose the number of shares in which the person concerned has any interest (material or otherwise).”.

Section 209

8. For section 209 there shall be substituted the following section—

“209 Interests to be disregarded.

(1) Subject to subsections (5) and (6), the following interests in shares are disregarded for the purposes of sections 198 to 202—

- (a) where property is held on trust and an interest in shares is comprised in that property, an interest of a person, being a discretionary interest or an interest in reversion or remainder or an interest of a bare trustee;
- (b) an interest which a person has by virtue of holding units in—
 - (i) an authorised unit trust scheme;
 - (ii) a recognised scheme; or
 - (iii) a UCITS;
- (c) an interest of a person which is an exempt security interest within the meaning of subsection (2);
- (d) an interest which a person has by virtue of his being a beneficiary under a retirement benefits scheme as defined in section 611 of the Income and Corporation Taxes Act 1988(4);
- (e) an interest which a person has in shares as a result of the acceptance of a takeover offer made by him (either alone or jointly with one or more other persons) for shares where—
 - (i) the offer is subject to a threshold acceptance condition; and
 - (ii) the threshold acceptance condition is not fulfilled;
- (f) an interest of a person which is an exempt custodian interest within the meaning of subsection (4);
- (g) an interest which a person has by virtue of his being a personal representative of any estate;
- (h) an interest which a person has—
 - (i) by virtue of his being a trustee of an authorised unit trust scheme, or
 - (ii) in relation to a recognised scheme or a UCITS, by virtue of his being entrusted with the custody of the property in question (whether or not under a trust).

(2) An interest in shares is an exempt security interest for the purposes of subsection (1)(c)—

(a) if it is held by a person who is—

(i) a person authorised under Part I of the Banking Act 1987⁽⁵⁾, an authorised credit institution, a person authorised under the law of a member State other than the United Kingdom to accept deposits who would, if he were to accept such deposits in the United Kingdom require authorisation under Part I of that Act, or an authorised insurance undertaking; or

(ii) a person authorised under the law of a member State to deal in securities, who deals in securities on a relevant stock exchange, whether as a member or otherwise; or

(iii) a relevant investment exchange or a recognised clearing house; or

(b) if it is held by the Bank of England or by the central bank of a member State other than the United Kingdom;

and it is held by way of security only for the purposes of a transaction entered into in the ordinary course of his or its business as such a person.

(3) For the purposes of subsection (1)(e)—

(a) “takeover offer” has the same meaning as in Part XIII A; and

(b) “a threshold acceptance condition” means a condition that acceptances are received in respect of such proportion of the shares for which the takeover offer is made as is specified in or determined in accordance with the terms of the takeover offer.

(4) For the purposes of subsection (1)(f) an interest of a person is an exempt custodian interest if it is held by him—

(a) as a custodian (whether under a trust or by a contract); or

(b) under an arrangement pursuant to which he has issued, or is to issue, depositary receipts in respect of the shares concerned.

(5) An interest referred to in any paragraph of subsection (1) (except for paragraph (c)) is disregarded only if the person referred to in the relevant paragraph or in subsection (4) is not entitled to exercise or control the exercise of voting rights in respect of the shares concerned; and for this purpose he is not so entitled if he is bound (whether by contract or otherwise) not to exercise the voting rights, or not to exercise them otherwise than in accordance with the instructions of another.

(6) In the case of an interest referred to in paragraph (c) of subsection (1), an interest of a person referred to in subsection (2) is disregarded only if that person—

(a) is not entitled (within the meaning of subsection (5)) to exercise or control the exercise of voting rights in respect of the shares concerned; or

(b) is so entitled, but has not evidenced any intention to exercise them or control their exercise nor taken any step to do so.

(7) For the purposes of subsections (5) and (6), voting rights which a person is entitled to exercise or of which he is entitled to control the exercise only in certain circumstances shall be taken into account only when the circumstances have arisen and for so long as they continue to obtain.

(8) An interest in shares of a company is also disregarded for the purposes of sections 198 to 202—

(5) 1987 c. 22.

- (a) if it is held by a market maker in securities or derivatives for the purposes of his business, but
 - (b) only in so far as it is not used by him for the purpose of intervening in the management of the company.
- (9) For the purposes of subsection (8) a person is a market maker in securities or derivatives if—
- (a) he is authorised under the law of a member State to deal in securities or derivatives and so deals on a relevant stock exchange or on a relevant investment exchange (whether as a member or otherwise); and
 - (b) he holds himself out at all normal times as willing to acquire and dispose of securities or derivatives at prices specified by him and in so doing is subject to the rules of that exchange;
- and he holds an interest for the purposes of his business if he holds it for the purposes of a business carried on by him as a market maker in a member State.
- (10) The following interests in shares in a public company which is not listed are also disregarded for the purposes of sections 198 to 202—
- (a) an interest which subsists by virtue of—
 - (i) a scheme made under section 24 or 25 of the Charities Act 1993⁽⁶⁾, section 25 of the Charities Act (Northern Ireland) 1964⁽⁷⁾, section 11 of the Trustee Investments Act 1961⁽⁸⁾ or section 42 of the Administration of Justice Act 1982⁽⁹⁾, or
 - (ii) the scheme set out in the Schedule to the Church Funds Investment Measure 1958⁽¹⁰⁾ ;
 - (b) an interest of the Church of Scotland General Trustees or of the Church of Scotland Trust in shares held by them or of any other person in shares held by those Trustees or that Trust otherwise than as simple trustees;
 - (c) an interest for the life of himself or another of a person under a settlement in the case of which the property comprised in the settlement consists of or includes shares, and the conditions mentioned in subsection (11) are satisfied;
 - (d) an interest of the President of the Family Division of the High Court subsisting by virtue of section 9 of the Administration of Estates Act 1925⁽¹¹⁾ ;
 - (e) an interest of the Accountant General of the Supreme Court in shares held by him;
 - (f) an interest of the Public Trustee;
 - (g) an interest of the Probate Judge subsisting by virtue of section 3 of the Administration of Estates Act (Northern Ireland) 1955⁽¹²⁾ .
- (11) The conditions referred to in subsection (10)(c) are, in relation to a settlement—
- (a) that it is irrevocable, and
 - (b) that the settlor (within the meaning of section 670 of the Income and Corporation Taxes Act 1988) has no interest in any income arising under, or property comprised in, the settlement.

(6) 1993 c..
 (7) 1964 c. 33 (N.I.).
 (8) 1961 c. 62.
 (9) 1982 c. 53.
 (10) 1958 No. 1.
 (11) 1925 c. 23.
 (12) 1955 c. 24 (N.I.).

(12) A person is not by virtue of section 208(4)(b) taken to be interested in shares by reason only that he has been appointed a proxy to vote at a specified meeting of a company or of any class of its members and at any adjournment of that meeting, or has been appointed by a corporation to act as its representative at any meeting of a company or of any class of its members.

(13) In the application of subsection (1)(a) to property held on trust according to the law of Scotland, for the words “or remainder or an interest of a bare trustee” there shall be substituted “or in fee or an interest of a simple trustee”.

Section 220

9. In section 220, for subsection (1) there shall be substituted the following subsection—

“(1) In this Part of this Act—

“associated index”, in relation to a register, means the index kept in relation to that register in pursuance of section 211(6);

“authorised credit institution” means a credit institution as defined in Article 1 of Council Directive [77/780/EEC](#)(13) which is authorised to carry on the business of a credit institution by a competent authority of a member State other than the United Kingdom;

“authorised insurance undertaking” means an insurance undertaking which has been authorised in accordance with Article 6 or 23 of Council Directive [73/239/EEC](#)(14) or Article 6 or 27 of Council Directive [79/267/EEC](#)(15), or is authorised under the law of a member State to carry on insurance business restricted to re-insurance;

“authorised unit trust scheme” has the same meaning as in Chapter VIII of Part I of the Financial Services Act 1986;

“depository receipt” means a certificate or other record (whether or not in the form of a document)—

- (a) which is issued by or on behalf of a person who holds shares or who holds evidence of the right to receive shares, or has an interest in shares, in a particular company; and
- (b) which evidences or acknowledges that another person is entitled to rights in relation to those shares or shares of the same kind, which shall include the right to receive such shares (or evidence of the right to receive such shares) from the person mentioned in paragraph (a);

“derivatives” means—

- (a) options to acquire or dispose of shares; and
- (b) rights under a contract falling within paragraph 8 of Schedule 1 to the Financial Services Act 1986 (futures), where the property in question is shares;

“designated agency” has the same meaning as in the Financial Services Act 1986;

“listed company” means a company any of the shares in which are officially listed on a relevant stock exchange and “listed” shall be construed accordingly;

“material interest” shall be construed in accordance with section 199(2A);

(13) OJ No. L322, 17.12.77, p.30, as amended by Council Directive [86/524/EEC](#) (OJ No. L309, 4.11.86, p.15) and Council Directive [89/646/EEC](#) (OJ No. L386, 30.12.89, p.1).

(14) OJ No. L228, 16.8.73, p.3.

(15) OJ No. L63, 13.3.79, p.1.

“operator”, in relation to a collective investment scheme, shall be construed in accordance with section 75(8) of the Financial Services Act 1986;

“recognised clearing house”, “recognised professional body”, “recognised scheme”, and “recognised self-regulating organisation” have the same meaning as in the Financial Services Act 1986;

“register of interests in shares” means the register kept in pursuance of section 211 including, except where the context otherwise requires, that part of the register kept in pursuance of section 213;

“relevant investment exchange” means an exchange situated or operating in a member State on which derivatives are traded;

“relevant share capital” has the meaning given by section 198(2);

“relevant stock exchange” means a stock exchange situated or operating in a member State;

“UCITS” has the meaning given by section 199(8);

“units” has the same meaning as in section 75 of the Financial Services Act 1986.”

Revocations

10.—(1) The following Regulations(**16**) are hereby revoked—

- (a) the Public Companies (Disclosure of Interests in Shares) (Exclusions) Regulations 1982(**17**); and
- (b) the Public Companies (Disclosure of Interests in Shares) (Investment Management Exclusion) Regulations 1988(**18**).

(2) In the Banking Coordination (Second Council Directive) Regulations 1992(**19**), in Schedule 10, paragraph 48 is hereby revoked.

Transitional provisions

11.—(1) In this regulation “commencement” means the commencement of these Regulations.

(2) Where a person—

- (a) has a notifiable interest immediately after commencement, but did not have such an interest immediately before commencement, or
- (b) had a notifiable interest immediately before commencement, but does not have such an interest immediately after commencement, or
- (c) had a notifiable interest immediately before commencement and has such an interest immediately after commencement but the percentage levels of his interest immediately before and immediately after commencement are not the same,

then he comes under an obligation to notify the company with respect to the interest which he has or had in its shares; and the provisions of Part VI of the Companies Act 1985 shall apply as if that obligation arose under section 198 of that Act.

(**16**) By virtue of section 134(6) of the Companies Act 1989, the Regulations referred to have effect as if made under section 210A(1)(d) of the Companies Act 1985.

(**17**) S.I. [1982/677](#).

(**18**) S.I. [1988/706](#).

(**19**) S.I. [1992/3218](#).

20th July 1993

N. Hamilton
Parliamentary Under Secretary of State,
Department of Trade and Industry

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Part VI of the Companies Act 1985, which imposes an obligation to disclose certain interests in shares comprised in certain issued share capital of public companies. Exemptions from that obligation, contained in that Part and in the Public Company (Disclosure of Interests in Shares) (Exclusions) Regulations 1982 (S.I. 1982/677) and the Public Company (Disclosure of Interests in Shares) (Investment Management Exclusion) Regulations 1988 (S.I. 1988/706) and paragraph 48 of Schedule 10 to the Banking Coordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218, which amended S.I. 1988/706) are amended or superseded. In some cases the changes made are because continuance of certain exemptions in their present form would be incompatible with Council Directive 88/627/EEC on the information to be published when a major holding in a listed company is acquired or disposed of. The Regulations come into force on the sixtieth day after the day on which they are made.

Regulation 4 amends section 199 of that Act to make special provision for certain interests in relation to the percentage level of interest constituting a notifiable interest within the meaning of that Part. Amendments to section 198 (regulation 3), section 202 (regulation 6) and section 206 (regulation 7) and the substitution of section 200 (regulation 5) are amendments consequential upon the amendment to section 199 of the Act.

Regulation 8 supersedes section 209 of the Act (interests in shares to be disregarded for the purposes of sections 198 to 202) and the above mentioned Regulations by substituting a new section 209. Exemptions provided under new subsections (1) and (8) are subject to certain conditions as to the control of voting rights attaching to the shares concerned (see subsections (5), (6) and (7)). The exemption provided under subsection (8) is subject to a condition as to intervention in the management of the company. Subsection (10) provides for additional classes of interest to be exempted where the company concerned is not a listed company. Subsection (12) continues the exemption for proxy holders formerly contained in subsection (2) of section 209.

Regulation 9 substitutes a new section for section 220 of the Act (definitions to be applied for Part VI).

Regulation 10 revokes the Public Company (Disclosure of Interests in Shares) (Exclusions) Regulations 1982 (S.I. 1982/677) and the Public Company (Disclosure of Interests in Shares) (Investment Management Exclusion) Regulations 1988 (S.I. 1988/706) and paragraph 48 of Schedule 10 to the Banking Coordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218).

Regulation 11 makes transitional provisions to impose an obligation of disclosure in relation to interests which become notifiable as a result of the coming into force of these Regulations.