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STATUTORY INSTRUMENTS

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**1995 No. 849**

**The Local Authorities (Companies) Order 1995**

**PART I**  
**GENERAL**

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Local Authorities (Companies) Order 1995 and shall come into force as provided in paragraph (2) below.

(2) This Order shall come into force—

- (a) for the purposes of article 4, on 1st July 1995;
- (b) for the purposes of articles 5 to 10 in so far as they relate to companies formed on or before 31st March 1995, on 1st July 1995; and
- (c) for all other purposes on 1st April 1995.

(3) Except where the context otherwise requires, any reference in this Order to a section or Part is to a section or Part of the 1989 Act.

(4) In this Order—

“the 1985 Act” means the Companies Act 1985(1);

“the 1989 Act” means the Local Government and Housing Act 1989;

“the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England and Wales;

“controlled company” means a company (other than a company within a description set out in the Schedule to this Order) which for the purposes of Part V is under the control of a local authority or is treated as being under the control of each of two or more local authorities;

“director”, except in so far as the context otherwise requires, includes, in relation to a company which is an industrial and provident society, a member of the committee of management of the society and its chief officer;

“relevant authority”, in relation to a regulated company, means any local authority having control of that company or to whose influence the company is subject, or which is, by virtue of section 73 (authorities acting jointly, etc.) treated as having such control or influence;

and any reference to a regulated company is a reference to a company which is for the time being either—

- (a) a controlled company, or
- (b) a company which for the purposes of Part V is, or is treated as, subject to the influence of a local authority (the “relevant authority”) and which—

- (i) is an unlimited company or a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965<sup>(2)</sup> or under the Industrial and Provident Societies Act (Northern Ireland) 1969<sup>(3)</sup>; or
- (ii) satisfies either or both of the first and second conditions set out in paragraphs (5) and (7) below,

but is not within any description set out in the Schedule to this Order.

(5) The first condition mentioned in paragraph (4)(b)(ii) above is that the relevant authority would, if it were a company registered under the 1985 Act, be treated by virtue of section 258 of that Act<sup>(4)</sup> as having the right to exercise, or as having, during the relevant period, actually exercised, a dominant influence over the company in question.

(6) For the purposes of paragraph (5) above “the relevant period”, in relation to any duty or any action referred to in Part II of this Order, means the financial year of the relevant authority which ended immediately before the financial year in which, if the company in question were a regulated company, that duty would fall to be fulfilled, or in which that action is performed.

(7) The second condition mentioned in paragraph (4)(b)(ii) above is that if the authority were a company registered under the 1985 Act it would be required, by virtue of section 227 of that Act<sup>(5)</sup>, or of accounting standards such as would, by virtue of that Act, be applicable in the circumstances, to prepare group accounts in respect of the company in question.

(8) For the purposes of paragraph (7) above, in determining whether a local authority would be required to prepare group accounts it shall be assumed that no exclusion of or exemption from such requirement, other than those referred to in section 229(3)(a) and (c) of the 1985 Act, would be applicable by virtue of that Act.

### **Companies subject to the influence of local authorities**

2. In determining for the purposes of this Order whether a company is subject to the influence of a local authority no account shall be taken of any condition specified in any paragraph of subsection (1) or (3) of section 69, in so far as that condition is fulfilled by reference only to another company which is of a description mentioned in the Schedule to this Order, or to a person who is both an employee and either a director, manager, secretary or similar officer of such a company.

### **Application of the Order**

3. No provision in this Order shall be construed as requiring a company to act (or refrain from acting) in breach of any provision made by or under any enactment, or any obligation subsisting on the day on which such provision comes into force.

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(2) 1965 c. 12.

(3) 1969 c. 24. (N.I.).

(4) Section 258 is inserted by section 21(1) of the Companies Act 1989 (c. 40).

(5) Section 227 is inserted by section 5(1) of the Companies Act 1989.