

2005 No. 3442

COMPANIES

**The Companies Act 1985 (Operating and Financial Review)
(Repeal) Regulations 2005**

<i>Made</i>	- - - -	<i>14th December 2005</i>
<i>Laid before Parliament</i>		<i>15th December 2005</i>
<i>Coming into force</i>	- -	<i>12th January 2006</i>

The Secretary of State, in exercise of the powers conferred upon him by section 257 of the Companies Act 1985(a), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Companies Act 1985 (Operating and Financial Review) (Repeal) Regulations 2005.

(2) These Regulations come into force on 12th January 2006.

(3) In these Regulations “the 1985 Act” means the Companies Act 1985.

Repeal of requirement to prepare operating and financial review

2.—(1) Section 234AA of the 1985 Act (duty of directors of quoted company to prepare operating and financial review)(b) is repealed.

(2) In consequence of that repeal—

- (a) the 1985 Act is amended in accordance with Schedule 1 to these Regulations, and
- (b) the enactments specified in Schedule 2 to these Regulations are amended in accordance with that Schedule.

14th December 2005

Alun Michael
Minister of State for Industry and the Regions
Department of Trade and Industry

(a) 1985 c.6; section 257 was substituted by section 20 of the Companies Act 1989 (c.40), and amended by section 13 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c.27).
(b) Section 234AA was inserted by regulation 8 of S.I. 2005/1011.

SCHEDULE 1

Regulation 2(2)(a)

CONSEQUENTIAL AMENDMENTS OF THE 1985 ACT

1. In section 234 (directors' report)(a), omit subsection (4).
2. Omit the heading before section 234AA(b).
3. Omit section 234AB (approval and signing of operating and financial review)(c).
4. In section 235 (auditors' report)(d), omit subsection (3A).
5. In section 238(1A) (documents to be sent to persons entitled to receive copies of accounts and reports)(e), omit—
 - (a) paragraph (ba), and
 - (b) in paragraph (d), the words “that operating and financial review and”.
6. In section 239(1) (right to demand copies of accounts and reports)(f), omit—
 - (a) paragraph (ba), and
 - (b) in paragraph (d), the words “that operating and financial review and”.
7. In section 241(1) (accounts and reports to be laid before company in general meeting)(g), omit—
 - (a) paragraph (ba), and
 - (b) in paragraph (d), the words “that operating and financial review and”.
8. In section 242(1) (accounts and reports to be delivered to the registrar)(h), omit—
 - (a) paragraph (ba), and
 - (b) in paragraph (d), the words “that operating and financial review and”.
- 9.—(1) Section 245 (voluntary revision of defective accounts, reports and reviews)(i) is amended as follows.
 - (2) In subsection (1)—
 - (a) omit the words “, operating and financial review”, and
 - (b) for “revised statement, report or review” substitute “revised statement or report”.
 - (3) In subsection (2), for “, report or review” (in both places) substitute “or report”.
 - (4) In subsection (3), omit the words “, a revised operating and financial review”.
 - (5) In subsection (4)(a) and (b), for “, statement, report or review” substitute “statement or report”.

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- (a) Section 234 was substituted by regulation 2 of S.I. 2005/1011.
(b) Section 234AA and the heading preceding it were inserted by regulation 8 of S.I. 2005/1011.
(c) Section 234AB was inserted by regulation 8 of S.I. 2005/1011.
(d) Section 235 was substituted by section 9 of the Companies Act 1989, and amended by regulation 4 of S.I. 2002/1986, by regulation 6 of S.I. 2004/2947 and by regulations 3 and 10 of S.I. 2005/1011.
(e) Section 238 was substituted by section 10 of the Companies Act 1989, and amended by article 12 of S.I. 2000/3373, by regulation 10 of S.I. 2002/1986, and by regulation 19 of, and paragraph 2 of the Schedule to, S.I. 2005/1011.
(f) Section 239 was substituted by section 10 of the Companies Act 1989, and amended by article 13 of S.I. 2000/3373, by regulation 10(6) of S.I. 2002/1986, and by regulation 19 of, and paragraph 3 of the Schedule to, S.I. 2005/1011.
(g) Section 241 was substituted by section 11 of the Companies Act 1989, and amended by regulation 10(7) of S.I. 2002/1986, and by regulation 19 of, and paragraph 4 of the Schedule to, S.I. 2005/1011.
(h) Section 242 was substituted by section 11 of the Companies Act 1989, and amended by regulation 10(8) of S.I. 2002/1986, and by regulation 19 of, and paragraph 5 of the Schedule to, S.I. 2005/1011.
(i) Section 245 was substituted by section 12 of the Companies Act 1989, and amended by regulation 4 of, and paragraph 2 in Part 1 of Schedule 1 to, S.I. 1994/1935, by regulation 10(9) of S.I. 2002/1986, by regulations 3 and 10 of, and paragraph 11 of Schedule 1 to, S.I. 2004/2947, and by regulation 14 of S.I. 2005/1011.

(6) In subsection (4)(c)—

- (a) for “, report or review” (in the first place it occurs) substitute “or report”, and
- (b) for “derived from the previous accounts, report or review” substitute “derived from the previous accounts or report”.

10.—(1) Section 245A (Secretary of State’s notice in respect of annual accounts, reports and reviews)(a) is amended as follows.

(2) In subsection (1)—

- (a) in paragraphs (a) and (b), for “, directors’ report or operating and financial review” substitute “or directors’ report”, and
- (b) for “, report or review” substitute “or report”.

(3) In subsection (2)—

- (a) for “, report or review” substitute “or report”, and
- (b) for “a revised report or review” substitute “a revised report”.

(4) In subsection (3), for “, report or review” (in both places) substitute “or report”.

(5) In subsection (4)—

- (a) for “, revised directors’ reports and revised operating and financial reviews” substitute “and revised directors’ reports”, and
- (b) for “, reports or reviews” (in both places) substitute “or reports”.

11.—(1) Section 245B (application to court in respect of defective accounts, reports and reviews)(b) is amended as follows.

(2) In subsection (1), omit—

- (a) the words “or operating and financial review”, and
- (b) the words “or review”.

(3) In subsection (3A)—

- (a) omit the words “or a revised operating and financial review”;
- (b) in paragraph (a), omit the words “or operating and financial review”;
- (c) in paragraph (b), omit the words “, operating and financial review”;
- (d) in paragraph (c), omit the words “or review”.

(4) In subsection (4)—

- (a) for “, report or review” substitute “or report”;
- (b) in paragraph (b), omit the words “or review”;
- (c) for “defective accounts, report or review” substitute “defective accounts or report”;
- (d) for “approval of the accounts, report or review” substitute “approval of the accounts or report”.

(5) In subsection (5), for “, report or review” (in both places) substitute “or report”.

(6) In subsection (7)—

- (a) for “, revised directors’ reports and revised operating and financial reviews” substitute “and revised directors’ reports”, and
- (b) for “, reports or reviews” (in both places) substitute “or reports”.

(a) Section 245A was inserted by section 12 of the Companies Act 1989, and amended by regulation 3 of, and paragraph 11 of Schedule 1 to, S.I. 2004/2947, and by regulation 15 of S.I. 2005/1011.

(b) Section 245B was inserted by section 12 of the Companies Act 1989, and amended by regulation 10 of S.I. 2002/1986, by regulation 3 of, and paragraph 11 of Schedule 1 to, S.I. 2004/2947, and by regulation 16 of S.I. 2005/1011.

12.—(1) Section 245C (other persons authorised to apply to court)(a) is amended as follows.

(2) In subsection (1), in paragraphs (a) and (b), for “, directors’ reports and operating and financial reviews” substitute “and directors’ reports”.

13. In section 245F(1) (power of authorised persons to require documents, information and explanations)(b), for “, directors’ report or operating and financial review” substitute “or directors’ report”.

14.—(1) Section 251 (summary financial statements)(c) is amended as follows.

(2) Omit subsection (2ZA).

(3) In subsection (2D)—

(a) omit the words “(2ZA) or”, and

(b) in paragraphs (a) and (b) omit the words “review or”.

(4) In subsection (3) omit the words “or (in the case of a quoted company) operating and financial review”.

(5) In subsection (3A) for “, directors’ report or operating and financial review” substitute “or directors’ report”.

(6) In subsection (4)—

(a) in paragraph (aa) omit—

(i) the words “or (in the case of a quoted company) the operating and financial review”, and

(ii) the words “or review”;

(b) omit paragraph (ac);

(c) in paragraph (b)(i) omit—

(i) the words “or operating and financial review”, and

(ii) the words “or review”;

(d) for paragraph (ca) substitute—

“(ca) state whether, in that report, the auditor’s statement under section 235(3) (whether directors’ report is consistent with accounts) was qualified or unqualified and, if qualified, set out the qualified statement in full together with any further material needed to understand the qualification;”.

15. Omit section 256A (reporting standards for operating and financial reviews)(d).

16. In section 262A (index of defined expressions)(e), omit the entries relating to “group operating and financial review”, “operating and financial review” and “reporting standards and relevant reporting standards”.

17. Omit Schedule 7ZA (contents of operating and financial review)(f).

(a) Section 245C was inserted by section 12 of the Companies Act 1989, and amended by sections 10 and 64 of, and Schedule 8 to, the Companies (Audit, Investigations and Community Enterprise) Act 2004, by regulation 3 of, and paragraph 11 of Schedule 1 to, S.I. 2004/2947, and by regulation 17 of S.I. 2005/1011.

(b) Section 245F was inserted by section 12 of the Companies (Audit, Investigations and Community Enterprise) Act 2004, and amended by regulation 18 of S.I. 2005/1011.

(c) Section 251 was substituted by section 15 of the Companies Act 1989, and amended by regulation 3 of S.I. 1992/3003, by article 14 of S.I. 2000/3373, by article 15 of S.I. 2001/3649, by regulation 8 of S.I. 2002/1986, by regulation 11 of S.I. 2004/2947, and by regulation 12 of S.I. 2005/1011.

(d) Section 256A was inserted by regulation 11 of S.I. 2005/1011.

(e) Section 262A was inserted by section 22 of the Companies Act 1989, and amended by regulation 6 of, and paragraph 3 of Schedule 2 to, S.I. 1991/2705, by regulation 5 of, and paragraph 5 of Schedule 2 to, S.I. 1993/3246, by regulation 4(2) of S.I. 1994/233, by regulation 4 of, and paragraph 3 of Schedule 1 to, S.I. 1994/1935, by regulation 12(2) of S.I. 1996/189, by regulation 7 of S.I. 1997/220, by regulation 4(4) of S.I. 1997/2306, by article 16(2) of S.I. 2000/3373, by regulation 10 of S.I. 2002/1986, by regulation 3 of, and paragraph 21 of Schedule 1 to, S.I. 2004/2947, and by regulation 19 of, and paragraph 7 of the Schedule to, S.I. 2005/1011.

(f) Schedule 7ZA was inserted by regulation 9 of S.I. 2005/1011.

18. In Schedule 24 (punishment of offences)(a), omit the entries relating to sections 234AA(5) and 234AB(4).

(a) The entries for sections 234AA(5) and 234AB(4) were inserted by regulation 19 of, and paragraph 8 of the Schedule to, S.I. 2005/1011.

CONSEQUENTIAL AMENDMENTS OF OTHER ENACTMENTS

The Companies (Revision of Defective Accounts and Report) Regulations 1990

1.—(1) The Companies (Revision of Defective Accounts and Report) Regulations 1990(a) are amended as follows.

(2) In regulation 2 (interpretation)(b)—

- (a) omit the definitions of “date of the original operating and financial review” and “revised review”;
- (b) in the definition of “date of revision”—
 - (i) for “, directors’ remuneration report or operating and financial review” substitute “or directors’ remuneration report”, and
 - (ii) for “Regulation 5, 5A or 5B” substitute “Regulation 5 or 5A”;
- (c) in the definition of “original”—
 - (i) for “, directors’ remuneration report or operating and financial review” substitute “or directors’ remuneration report”, and
 - (ii) omit the words “or review”;
- (d) in the definitions of “revision by replacement” and “revision by supplementary note”, for “, directors’ remuneration report or operating and financial review” (in each place) substitute “or directors’ remuneration report”.

(3) In regulation 3 (content of revised accounts, revised report or revised review)(c)—

- (a) in the heading, for “, revised report or revised review” substitute “or revised report”, and
- (b) in paragraph (4)—
 - (i) for “, directors’ remuneration report or operating and financial review” (in both places) substitute “or directors’ remuneration report”, and
 - (ii) omit “or review” (in both places).

(4) Omit regulation 5B (approval and signature of revised operating and financial review)(d).

(5) In regulation 6 (auditors’ report on revised accounts and revised report or review)(e)—

- (a) in the heading, omit “or review”, and
- (b) in paragraph (4), omit “or operating and financial review” and “or review” (in both places).

(6) In regulation 7 (auditors’ report on revised report or review alone)(f)—

- (a) in the heading, omit “or review”;
- (b) in paragraphs (1) and (2) omit “or review”;
- (c) omit paragraph (3A).

(7) In regulation 9 (effect of revision)(g)—

(a) S.I. 1990/2570, as amended by regulation 10 of S.I. 1992/3075, by regulation 5 of, and Schedule 2 to, S.I. 1994/1935, by regulation 12 of S.I. 1995/2092, by S.I. 1996/315, and by S.I. 2005/2282.
 (b) Regulation 2 was amended by regulation 3 of S.I. 2005/2282.
 (c) Regulation 3 was amended by regulation 4 of S.I. 2005/2282.
 (d) Regulation 5B was inserted by regulation 6 of S.I. 2005/2282.
 (e) Regulation 6 was amended by regulation 7 of S.I. 2005/2282.
 (f) Regulation 7 was amended by regulation 8 of S.I. 2005/2282.
 (g) Regulation 9 was amended by regulation 9 of S.I. 2005/2282.

- (a) in paragraph (1)—
 - (i) for “revised report or review” (in both places) substitute “revised report”;
 - (ii) for “Regulation 5, 5A or 5B” substitute “Regulation 5 or 5A”;
 - (iii) for “, directors’ remuneration report or operating and financial review” substitute “or directors’ remuneration report”;
 - (b) in paragraph (2)—
 - (i) omit “or review”, and
 - (ii) for “, directors’ remuneration report or operating and financial review” substitute “or directors’ remuneration report”.
- (8) In regulation 10 (publication of revised accounts, reports and reviews)(a)—
- (a) in the heading, for “, reports and reviews” substitute “and reports”;
 - (b) in paragraph (1)—
 - (i) for “revised report or review” substitute “revised report”, and
 - (ii) for “, report or review” substitute “or report”;
 - (c) in paragraphs (2) and (3) omit “or review” (in each place);
 - (d) in paragraph (4)—
 - (i) omit “or review”, and
 - (ii) for “Regulation 5, 5A or 5B” substitute “Regulation 5 or 5A”.
- (9) In regulation 11 (laying of revised accounts or a revised report)(b)—
- (a) in the heading, omit “or review”;
 - (b) in paragraph (1)—
 - (i) for “revised report or review” substitute “revised report”, and
 - (ii) for “, report or review” substitute “or report”;
 - (c) in paragraphs (2) and (3), omit “or review” (in each place).
- (10) In regulation 12 (delivery of revised accounts or a revised report or review)(c)—
- (a) in the heading, omit “or review”;
 - (b) in paragraph (1)—
 - (i) for “revised report or review” substitute “revised report”, and
 - (ii) for “, report or review” substitute “or report”;
 - (c) in paragraph (2), omit “or review” (in each place).
- (11) In regulation 14 (summary financial statements)(d)—
- (a) in paragraph (2), omit “or review”;
 - (b) in paragraph (4)—
 - (i) omit “or review” (in both places), and
 - (ii) for “, directors’ remuneration report or operating and financial review” substitute “or directors’ remuneration report”;
 - (c) in paragraph (5), omit “or review”;
 - (d) in paragraph (6), for “, the revised directors’ remuneration report under Regulation 5A above or the revised operating and financial review under Regulation 5B above” substitute “or the revised directors’ remuneration report under Regulation 5A above”.

(a) Regulation 10 was amended by regulation 10 of S.I. 2005/2282.
 (b) Regulation 11 was amended by regulation 11 of S.I. 2005/2282.
 (c) Regulation 12 was amended by regulation 12 of S.I. 2005/2282.
 (d) Regulation 14 was amended by regulation 15 of S.I. 2005/2282.

- (12) In regulation 16 (modifications of the Act)(a)—
- (a) in paragraph (1), for “, directors’ remuneration report or operating and financial review” substitute “or directors’ remuneration report”, and
 - (b) in paragraph (3), omit “or review”.

The Companies (Summary Financial Statement) Regulations 1995

2.—(1) The Companies (Summary Financial Statement) Regulations 1995(b) are amended as follows.

- (2) In regulation 2 (interpretation)(c), in the definition of “full accounts and reports”—
- (a) omit “, the operating and financial review (if any)”, and
 - (b) for “, directors’ remuneration report or operating and financial review” substitute “or directors’ remuneration report”.
- (3) In regulation 5(1) (consultation by notice)(d)—
- (a) in sub-paragraph (b), omit “or (in the case of a quoted company) the operating and financial review for that year”;
 - (b) omit sub-paragraph (bb);
 - (c) in sub-paragraph (e)(i), omit “or operating and financial review” and “or review”.
- (4) In paragraph 1(2) of Schedule 1 (form and content of summary financial statement of non-banking or insurance companies and groups)(e), omit “, the operating and financial review (if any)”.
- (5) In paragraph 1(2) of Schedule 2 (form and content of summary financial statement of banking companies and groups)(f), omit “, the operating and financial review (if any)”.
- (6) In paragraph 2(2) of Schedule 3 (form and content of summary financial statement of insurance companies and groups)(g), omit “, the operating and financial review (if any)”.

The Limited Liability Partnerships Regulations 2001

3.—(1) Schedule 1 to the Limited Liability Partnerships Regulations 2001 (modifications to provisions of Part 7 of the 1985 Act as applied to limited liability partnerships)(h) is amended as follows.

- (2) Omit the entries relating to sections 234AA (duty to prepare operating and financial review), 234AB (approval and signing of operating and financial review) and 256A (reporting standards for operating and financial review) of the 1985 Act(i).
- (3) In the entries relating to section 239(1) (right to demand copies of accounts and reports) and 242(1) (accounts and reports to be delivered to registrar) of the 1985 Act(j), omit the reference to paragraph (ba) (in both places).
- (4) In the entry relating to section 245 of the 1985 Act (voluntary revision of accounts)(k)—
- (a) for paragraph (a) of the entry relating to subsection (2) substitute—

- (a) Regulation 16 was amended by regulation 17 of S.I. 2005/2282.
- (b) S.I. 1995/2092, as amended by S.I. 2000/3373, by S.I. 2002/1780, and by S.I. 2005/2281.
- (c) Regulation 2 was amended by regulation 2 of S.I. 2005/2281.
- (d) Regulation 5 was amended by regulation 5 of S.I. 2005/2281.
- (e) Paragraph 1(2) of Schedule 1 was amended by regulation 12(2) of S.I. 2005/2281.
- (f) Paragraph 1(2) of Schedule 2 was amended by regulation 13(2) of S.I. 2005/2281.
- (g) Paragraph 2(2) of Schedule 3 was amended by regulation 14(2) of S.I. 2005/2281.
- (h) S.I. 2001/1090, as amended by S.I. 2004/355 and S.I. 2005/1989.
- (i) The entry relating to sections 234AA and 234AB of the 1985 Act was inserted by regulation 2 of, and paragraph 4 of Schedule 1 to, S.I. 2005/1989, and that relating to section 256A by regulation 2 of, and paragraph 19 of Schedule 1 to, S.I. 2005/1989.
- (j) The entry relating to section 239(1) was substituted by regulation 2 of, and paragraph 7 of Schedule 1 to, S.I. 2005/1989, and that relating to section 242(1) by regulation 2 of, and paragraph 10 of Schedule 1 to, S.I. 2005/1989.
- (k) The entry relating to section 245 was substituted by regulation 2 of, and paragraph 13 of Schedule 1 to, S.I. 2005/1989.

- “(a) Omit the words “or report” in both places where they occur, and”, and
- (b) for paragraphs (a), (b) and (c)(i) of the entry relating to subsection (4) substitute—
 - “(a) In paragraph (a), omit the words “, statement or report”,
 - (b) in paragraph (b), omit the words “or reporting accountant” and the words “, statement or report”, and
 - (c) in paragraph (c)—
 - (i) for “where the previous accounts or report” substitute “where the previous accounts”,
- (5) In the entry relating to section 245A of the 1985 Act (Secretary of State’s notice in respect of annual accounts, reports and reviews)(a)—
 - (a) for paragraph (b) of the entry relating to subsection (1) substitute—
 - “(b) omit the words “or report”.”;
 - (b) for the entry relating to subsection (2) substitute “Omit the words “or report” and the words “or a revised report”.”;
 - (c) for the entry relating to subsection (3) substitute “Omit the words “or report” in both places where they occur.”;
 - (d) for the entry relating to subsection (4) substitute “Omit the words “and revised directors’ reports” and the words “or reports” in both places where they occur.”.
- (6) In the entry relating to section 245B of the 1985 Act (application in respect of defective accounts and reports)(b)—
 - (a) for the entry relating to subsection (1) substitute “Omit the words “, or a directors’ report does not comply,” and the words “or a revised report”.”;
 - (b) for the entry relating to subsection (4) substitute “Omit the words “or report” in each place where they occur and the words “or a revised report”.”;
 - (c) for the entry relating to subsection (5) substitute “Omit the words “or report” in both places where they occur.”;
 - (d) for the entry relating to subsection (7) substitute “ Omit the words “and revised directors’ reports” and the words “or reports” in both places where they occur.”.
- (7) For the entry relating to section 245C(1) of the 1985 Act (other persons authorised to apply to court)(c) substitute “Omit the words “and directors’ reports” in both places where they occur.”.

(a) The entry relating to section 245A was substituted by regulation 2 of, and paragraph 14 of Schedule 1 to, S.I. 2005/1989.
 (b) The entry relating to section 245B was substituted by regulation 2 of, and paragraph 15 of Schedule 1 to, S.I. 2005/1989.
 (c) The entry relating to section 245C(1) was inserted by regulation 2 of, and paragraph 16 of Schedule 1 to, S.I. 2005/1989.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations remove the requirement in section 234AA of the Companies Act 1985 for directors of quoted companies (as defined in section 262(1) of that Act) to prepare operating and financial reviews for financial years beginning on or after 1st April 2005 (regulation 2(1)). Regulation 2(2)(a) and Schedule 1 amend the Companies Act 1985 consequentially on that repeal. Regulation 2(2)(b) and Schedule 2 make consequential amendments to the Companies (Revision of Defective Accounts and Report) Regulations 1990 (S.I. 1990/2570, as last amended by S.I. 2005/2282), the Companies (Summary Financial Statement) Regulations 1995 (S.I. 1995/2092, as last amended by S.I. 2005/2281) and the Limited Liability Partnerships Regulations 2001 (S.I. 2001/1090, as last amended by S.I. 2005/1989).

A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from the Department of Trade and Industry, Corporate Law and Governance Directorate, 1 Victoria Street, London, SW1H 0ET (it is also available electronically at www.dti.gov.uk/cld). A copy has been placed in the libraries of both Houses of Parliament.

STATUTORY INSTRUMENTS

2005 No. 3442

COMPANIES

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