

**EXPLANATORY MEMORANDUM TO**  
**THE COMPANIES (REVISION OF DEFECTIVE ACCOUNTS AND REPORTS)**  
**REGULATIONS 2008**

**2008 No. 373**

**1.** This explanatory memorandum has been prepared by the Department for Business, Enterprise & Regulatory Reform and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 The Companies (Revision of Defective Accounts and Reports) Regulations 2008 set out detailed provisions on how companies should revise their accounts and reports under the Companies Act 2006 (the 2006 Act) if they are found to be defective. They replace the Companies (Revision of Defective Accounts and Report) Regulations 1990<sup>1</sup> (the 1990 Regulations) and the Companies (Revision of Defective Accounts and Report) Regulations (Northern Ireland) 1991<sup>2</sup> (the 1991 Regulations).

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative Background**

4.1 Part 15 of the 2006 Act and regulations made under it replace the provisions of Part 7 of the Companies Act 1985 (the 1985 Act) and Part 8 of the Companies (Northern Ireland) Order 1986 (the 1986 Order) and the associated Schedules, concerning the accounts and reports to be prepared by a company.

4.2 Part 15 comes into force on 6th April 2008, applying to financial years beginning on or after that date. The Small Companies and Groups (Accounts and Directors' Report) Regulations 2008 and the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 specify the form and content of accounts and reports and replace the accounting Schedules to the 1985 Act and the 1986 Order.

4.3 Section 454 of the 2006 Act (which re-enacts section 245 of the 1985 Act and Article 253 of the 1986 Order) enables company directors to revise the accounts, directors' report or directors' remuneration report where they consider that the original accounts or reports did not comply with the accounting and reporting provisions of the 2006 Act and the regulations referred to above, or with the directly

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<sup>1</sup> SI 1990/2570.

<sup>2</sup> SR 1991 No 268.

applicable IAS Regulation.<sup>3</sup> It also enables voluntary revision of summary financial statements.

4.4 Section 454 of the 2006 Act confers power on the Secretary of State to make regulations providing for the application of the 2006 Act provisions where there is voluntary revision. These Regulations made under that section set out the procedures for voluntary revision. They cover matters such as the method of revision, the functions of the auditors in relation to the revised documents and the steps directors should take to bring revisions to the attention of shareholders (including persons nominated to enjoy information rights under section 146 of the 2006 Act).

## **5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

### *Policy*

7.1 From time to time, companies may need to revise their accounts or reports, if they discover that these in some way do not comply with the requirements of company law. In order to encourage openness and transparency, the 2006 Act explicitly permits voluntary revision (as did the 1985 Act and the 1986 Order). The Regulations set out procedures for voluntary revision, to ensure that companies are not discouraged from making voluntary revisions by uncertainty about how to do so, and to ensure consistency in the way it is done.

7.2 The detailed accounting and reporting requirements in Part 15 of the 2006 Act and the regulations under it are substantially the same as those in Part 7 of the 1985 Act and Part 8 of the 1986 Order and their associated Schedules.

7.3 These Regulations restate the 1990 Regulations and the 1991 Regulations in terms of the 2006 Act and the regulations made under it, and do not make any change to the substance of the provisions on defective accounts, other than to recognise the rights of nominated persons under section 146 of the 2006 Act. They are not politically or legally important.

### *Consultation*

7.4 A draft of the Regulations was made available on the Department's website on 20 July 2007, with comments invited by the end of September. A few minor drafting comments were made and adopted.

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<sup>3</sup> EC Regulation No. 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards.

## *Guidance*

7.5 Guidance on these and the other accounting regulations will be published on the Department's website once the regulations have been made. This will explain the impact and relevance of the changes, and help users to find their way around the new form of the detailed requirements on the format and content of accounts.

## **8. Impact**

8.1 An Impact Assessment has not been prepared for these Regulations because the impact on business is minimal. They restate existing requirements without changing the substance.

8.2 These Regulations have no impact on the public sector.

## **9. Contact**

Valerie Carpenter at the Department for Business, Enterprise & Regulatory Reform, Telephone: 020 7215 0225 or e-mail: Valerie.Carpenter@berr.gsi.gov.uk can answer any queries regarding the instrument.