
STATUTORY INSTRUMENTS

1991 No. 2945 (C.92)

COMPANIES

**The Companies Act 1989 (Commencement
No. 14 and Transitional Provision) Order 1991**

Made - - - - 20th December 1991

The Secretary of State, in exercise of his powers under section 215(2) and (3) of the Companies Act 1989(1), hereby makes the following Order:—

1. This Order may be cited as the Companies Act 1989 (Commencement No. 14 and Transitional Provision) Order 1991.

2. Sections 1 and 11 in Part I of the Companies Act 1989 shall come into force on 1st July 1992 for the purpose of inserting the new section 242A into Part VII of the Companies Act 1985(2), subject to the transitional provision set out in article 3 below.

3. (1) This article applies where—

(a) the requirements of section 242 of the Companies Act 1985 as to the delivering of accounts and reports before the end of the period allowed for so doing have not been complied with before 1st July 1992, and

(b) those requirements have still not been complied with on that date.

(2) In such a case, the period by reference to the length of which the amount of the penalty is determined under section 242A(2) of the Companies Act 1985 shall be deemed to commence on 1st July 1992.

20th December 1991

John Redwood
Minister of State,
Department of Trade and Industry

(1) 1989 c. 40.
(2) 1985 c. 6.

Status: This is the original version (as it was originally made).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 Order)

This Order brings into force on 1st July 1992 sections 1 and 11 in Part I of the Companies Act 1989 (Company Accounts) for the purpose of inserting a new section 242A (liability to civil penalty for failure to deliver accounts under section 242) into Part VII of the Companies Act 1985.

Article 3 makes transitional provision in cases where the requirements of section 242 of the Companies Act 1985 as to the delivering of accounts and reports have not been complied with before 1st July 1992, and have still not been complied with on that date. In such cases the period by reference to which the amount of the civil penalty is calculated under section 242A(2) is deemed to commence on 1st July 1992.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The provisions of the Companies Act 1989 brought into force by Orders made before the making of the Companies Act 1989 (Commencement No. 13) Order 1991 (S.I.1991/2173) are set out in a note appended to that Order.

That Order itself brought into force on 1st October 1991 (insofar as they were not already in force) the provisions of sections 160 (duty to give assistance for purposes of default proceedings), 162 (duty to report on completion of default proceedings), 166 (powers of Secretary of State to give directions), 167 (application to determine whether default proceedings to be taken) and 184 (indemnity for certain acts etc.) of the Companies Act 1989.

PART I

(3) Further, if the directors of the company fail to make good the default within 14 days after the service of a notice on them requiring compliance, the court may on the application of any member or creditor of the company or of the registrar, make an order directing the directors (or any of them) to make good the default within such time as may be specified in the order.

The court's order may provide that all costs of and incidental to the application shall be borne by the directors.

(4) It is a defence for a person charged with an offence under this section to prove that he took all reasonable steps for securing that the requirements of subsection (1) would be complied with before the end of the period allowed for laying and delivering accounts and reports.

(5) It is not a defence in any proceedings under this section to prove that the documents in question were not in fact prepared as required by this Part.

Civil penalty for failure to deliver accounts.

242A.—(1) Where the requirements of section 242(1) are not complied with before the end of the period allowed for laying and delivering accounts and reports, the company is liable to a civil penalty.

This is in addition to any liability of the directors under section 242.

(2) The amount of the penalty is determined by reference to the length of the period between the end of the period allowed for laying and delivering accounts and reports and the day on which the requirements are complied with, and whether the company is a public or private company, as follows:—

<i>Length of period</i>	<i>Public company</i>	<i>Private company</i>
Not more than 3 months.	£500	£100
More than 3 months but not more than 6 months.	£1,000	£250
More than 6 months but not more than 12 months.	£2,000	£500
More than 12 months.	£5,000	£1,000

(3) The penalty may be recovered by the registrar and shall be paid by him into the Consolidated Fund.

(4) It is not a defence in proceedings under this section to prove that the documents in question were not in fact prepared as required by this Part.

Accounts of subsidiary undertakings to be appended in certain cases.

243.—(1) The following provisions apply where at the end of the financial year a parent company has as a subsidiary undertaking—

(a) a body corporate incorporated outside Great Britain which does not have an established place of business in Great Britain, or