



COMPANIES ACT 1931

COMPANIES (AUDIT EXEMPTION) REGULATIONS 2007

Approved by Tynwald

21st March 2007

Coming into operation on

6th April 2007

In exercise of the powers conferred on the Treasury by section 324B of the Companies Act 1931^a and of all other enabling powers, the following Regulations are hereby made:-

Citation and commencement

1. (1) These Regulations may be cited as the Companies (Audit Exemption) Regulations 2007 and, subject to section 324B(5) of the Act shall come into operation on the 6 April 2007.

(2) These Regulations shall apply in respect of periods of account with an accounting date commencing on or after the 6 April 2007 and subsequent years.

Revocation

2. The following regulations are revoked-

- (a) the Companies (Exempt and Non-Resident Private Companies) (Audit Exemption) Regulations 1993^b;
- (b) the Companies (Exempt and Non-Resident Private Companies) (Audit Exemption) (Amendment) Regulations 1994^c;
- (c) the Companies (Exempt and Non-Resident Private Companies) (Audit Exemption) (Amendment) Regulations 2005^d;
- (d) the Companies (Exempt and Non-Resident Private Companies) (Audit Exemption) (Amendment) Regulations 2006^e.

Interpretation

3. (1) In these Regulations-

^a Vol. XIII p.235

^b Statutory Document 293/93

^c Statutory Document 283/94

^d Statutory Document 852/05

^e Statutory Document 287/06

“audit” means the audit of financial statements by a person qualified for appointment as an auditor under section 14 of the Companies Act 1982;

“balance sheet total” means the aggregate gross assets;

“default fine” and “officer in default” have the meanings given in section 330 of the Companies Act 1931;

“financial statements” means a profit and loss account and balance sheet as required by section 2 of the Companies Act 1982;

“group” in relation to a company, means the company, any other body corporate which is its holding company or subsidiary and any other body corporate which is a subsidiary of that holding company;

“group accounts” has the meaning given in section 4 of the Companies Act 1982;

“holding company” has the meaning given in section 1 of the Companies Act 1974;

“subsidiary” has the meaning given in section 1 of the Companies Act 1974;

“turnover” means the amounts derived from the provision of goods and services falling within the company’s ordinary activities, after deduction of–

- (a) trade discounts,
- (b) value added tax, and
- (c) any other taxes based on the amount so derived.

(2) A company is an “audit exempt company” in any financial year if –

- a) at least two of the following conditions are met:-
 - (i) its turnover in that year does not exceed £5.6 million;
 - (ii) its balance sheet total does not exceed £2.8 million at any time during that year;
 - (iii) it employs no more than 50 persons at any time during that year; or
- b) throughout that year, all its members are directors and it exists wholly for the purpose of holding shares, securities, other investments or land.

Exemption

4. (1) A private company which is an audit exempt company may elect in accordance with regulation 6 to dispense with compliance with the requirements of the Companies Acts 1931 to 2004 which relate to the audit of the accounts of companies.

(2) If a company makes an election under paragraph (1), the election shall, subject to the provisions of these Regulations have effect in respect of the financial statements for the financial year in which the election is made and subsequent financial years.

(3) For a period which is a company's financial year but which does not consist of a continuous consecutive period of one full calendar year the maximum figure in regulation 3(2) in respect of turnover shall be proportionately adjusted.

(4) Where an election by a company is in force in respect of a financial year, the provisions of the Companies Act 1982^f set out below shall, in respect of that year, have effect in relation to the company subject to the following adaptations and modifications-

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| section 9(1)- | omit the words “, and the auditors’ report shall be attached thereto”; |
| section 9(3)- | omit the words “or without having attached thereto a copy of the auditors’ report,”; |
| section 11(1)- | omit the words “, together with a copy of the auditors’ report,”; |
| section 11(4)- | omit the words “, together with the auditors’ report on the balance sheet”; |
| section 12 to 15- | omit the sections. |

(5) Where an election is made, the copies of the financial statements sent out to every member of the company in accordance with section 11(1) of the Companies Act 1982 shall be accompanied by a notice informing him of the fact that the financial statements have not been audited and of his rights under regulation 6.

(6) If default is made in complying with paragraph (5) the company and every officer of the company who is in default shall be guilty of an offence and shall be liable to a default fine.

(7) Notwithstanding this regulation, an election under paragraph (1) shall not be treated as having effect in respect of any financial year if, at any time in that year, the company is not an audit exempt company.

Groups of Companies

5. (1) A company which is a member of a group which is required to prepare consolidated group accounts under Section 4 of the Isle of Man Companies Act 1982 or would be so required save for the provisions of Section 4(2)(a) or (b) of such Act may only elect to become an audit exempt company provided the group in aggregate satisfies the conditions set out in regulation 3(2).

(2) Where during a financial year a company joins or leaves a group which is required to prepare consolidated group accounts under Section 4 of the Companies Act 1982

^f 1982 c.2

or would be so required save for the provisions of Section 4(2)(a) or(b) of such Act, that company shall only be an audit exempt company if-

- (a) the whole group met the conditions in regulation 3(2) for the period the company was a member of the group, and;
- (b) the company also meets the conditions in regulation 3(2) for the financial year.

(3) For a period which is a company's financial year but which does not consist of a continuous consecutive period of one full calendar year, the maximum figure in regulation 3(2) in respect of turnover shall be proportionately adjusted.

Safeguards for Members

6. (1) A resolution for the purpose of making an election under regulation 4(1) shall not take effect unless 100% of the members of the company have voted in favour of the resolution.

(2) A member of the company may at any time by notice in writing deposited at the registered office of the company require the rescission of an election under regulation 4(1).

(3) The directors shall, within 21 days from the date of the deposit of such notice appoint an auditor in the same manner as they may fill a casual vacancy in the office of auditor.

(4) If the directors fail to comply with paragraph (3), the person who deposited the notice may apply to the Financial Supervision Commission to appoint an auditor.

(5) If default is made in complying with paragraph 3 the company and every director of the company who is in default shall be liable to a default fine.

(6) If, by reason of a notice deposited by a member under paragraph (2), the financial statements of the company are required to be audited,-

- (a) the notice shall have effect in respect of the financial statements for the financial year in which the notice is deposited with the company and subsequent financial years; and
- (b) any resolution purporting to make an election under regulation 4(1) shall not have effect as an election in that financial year or subsequent financial years unless confirmed by 100% of the members at a subsequent general meeting of the company or by written resolution in accordance with section 118A of the Companies Act 1931.

(7) Where a resolution is passed in accordance with paragraph (6)(b) which reinstates the election under regulation 4(1), the election shall, subject to the provisions of these Regulations, apply in respect of the accounts for the financial year in which the resolution is passed and subsequent financial years.

Transitional provisions

7. A company –

(a) which was an audit exempt company under the regulations revoked by these Regulations immediately prior to their revocation; and

(b) whose current financial year commenced prior to these Regulations coming into operation but had not ended at the time these Regulations came into operation,

shall be treated as an audit exempt company under these Regulations for the remainder of that financial year.

Made on 2nd March 2007



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Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations allow certain private companies to elect not to have their accounts audited as required by the Companies Acts 1931 to 2004. They set the requirements and limits in connection with such election and provide safeguards to enable any member to require the accounts to be audited.