

Accounts and Reports

Categories of Company

Every company must keep accounting records to show and explain its transactions and disclose its financial position. Accounting records must be adequate to enable year end or "statutory" accounts to be prepared and comply with the Companies Act and European Union Regulations.

The Companies Act, 2006 distinguishes between **small**, **medium** and **large** sized companies in relation to their financial reporting obligations. Public companies will always be **large** companies. **Small** and **medium** size companies may only be private unquoted companies.

In order to qualify as a **small** company, two of the following three requirements must be met for the relevant financial year:-

- turnover must not exceed £6.5 million;
- balance sheet total must not exceed £3.26 million;
- average number of employees must not exceed 50.

A **medium**-sized company must satisfy two of the following:-

- turnover must not exceed £25.9 million;
- balance sheet not exceeding £12.9 million;
- average number of employees not exceeding 250.

Any company which is neither a **small** nor **medium** sized company is a **large** company for the purpose of producing accounts.

Where a company is a parent company, it cannot qualify as a small company unless the group qualifies as a small or medium-sized company. The provisions in relation to small and medium-sized companies also apply to small and medium sized groups. Groups generally require consolidated financial reporting.

An unlimited company is exempt from the requirement to deliver accounts to Companies House. This exemption does not apply if the company is a subsidiary or a parent of a company which is a limited company or entity.

Small Companies

A company that qualifies as a small company is not required to have its annual accounts audited provided it satisfies the small company balance sheet and turnover requirements. A company with less than 50 employees is not exempt from audit by reason of satisfying one only of the other two tests. Any member of the company holding 10% or more of the nominal value of the shares, may require the company to obtain an audit notwithstanding that it otherwise qualifies as a small company.

A company is dormant if it has no significant accounting transactions in a particular period. A dormant company is exempt from having its accounts audited if it has been dormant since foundation or it has been dormant since the end of the previous financial year and the current financial year. It is entitled to prepare accounts in accordance with the small company regime and is not required to prepare group accounts.

Preparation of Accounts

Directors of a company which is not exempted under the small or medium sized regime, are obliged to ensure that the company prepares accounts. If a company is a parent company not subject to the small companies regime, group accounts must also be prepared, unless certain exemptions apply.

The financial accounts must be prepared and approved by the board of directors. They must give a true and fair position of the company's financial position. The directors must

prepare a Directors' Report with the contents prescribed in Companies Act. Directors can be liable to compensate the company for any loss it suffers as a result of any untrue or misleading statements in Directors' Report or any omission of anything that is required to be included. Directors' remuneration must be included.

All companies other than those exempt from mandatory auditing requirements must appoint an auditor. The auditor is required to report to the members on annual accounts. The auditors report must contain certain provisions and deal with certain matters.

Accounting Standards

Companies may chose whether their individual or group accounts are prepared in accordance with the Companies Act or in accordance with International Accounting Standards. IAS standards have been adopted under European Union Regulations. The freedom to choose financial reporting frameworks is subject to certain restrictions and exemptions for particular types of companies and in particular individual circumstances.

UK Financial Reporting Standards are issued by the Accounting Standards Board in the United Kingdom. Notes to the Companies Act accounts of a large company must state whether the accounts have been prepared in accordance with the applicable accounting standards. Particulars of material departures and reasons for such departures must be stated.

Circulating to Shareholders

Non-quoted companies must circulate their accounts to their members and debenture holders together with anyone else entitled to receive notice of meetings. Any member of a company or holder of a debenture is entitled to a copy of the most recent annual accounts and report free of charge. Stock Exchange quoted companies must make their reports available on their website. There are further and more specific reporting obligations on accounts traded on a regulated market.

The directors of a public company must lay copies of the accounts and reports before a general meeting. This must be done before the period allowed for filing accounts. Directors must deliver a copy of company accounts to Companies House. Small or medium sized companies need not deliver full accounts and reports. They may instead deliver abbreviated accounts. Failure to deliver accounts may lead to a fine. A notice may also be served on directors requiring compliance. If they default, they may be ordered to make good default on an application by any member or creditor of the company.

There are fixed penalties for filing accounts late. The amount of the penalty depends on the length of the delay.

Publication of Accounts

If a company wishes to publish its financial statements, it is subject to certain requirements. It may publish either statutory or non statutory accounts. Publication means issue or circulation or making available for inspection and inviting third parties generally or any class of third parties to read them. Any statutory accounts which are published must be accompanied by an auditors report, or if they are abbreviated accounts, a special auditor's report.

A company may publish non statutory accounts (i.e. other than the accounts required to be filed with Companies House). It must publish them with a special statement highlighting certain matters, including particularly that they are not statutory accounts. Details of whether the statutory accounts have been reported on by an auditor and also whether the auditor's report was qualified or unqualified or drew attention by way of emphasise to particular matters or not, must be provided.

Public companies must publish half yearly reports and interim statements under the Financial Services requirements, particularly those deriving from the Transparency Directive.

Business Review

Unless the company is entitled to small companies exemption, the directors' report must contain a business review. This is to inform members and help them assess how the directors have performed their duties and promoted the success of the company.

A business review must include an overview of the company's business and description of the principal risks and uncertainties facing the company or group. It must be a balanced and comprehensive analysis of the development and performance of the company or group's business during the financial year and its position at year end, consistent with its size and complexity.

A business review is required to use financial key performance indicators. Where appropriate, other KPIs including information relating to environmental and employee matters should also be provided. KPIs are factors which effectively measure the development, performance and position of the company. A medium sized company need not provide non financial information in the analysis using KPIs.

The business review of a quoted company must include details of the main trend and factors likely to effect its development, performance and business. Information on environment, employees, social and community matters and information about persons with whom the company has contractual arrangements which are essential to its business should be provided.

Director's Report

The directors report must contain a statement by everyone who is a director confirming that insofar as the director is aware, there is no relevant audit information of which the company auditor is unaware. Relevant audit information includes information needed by an auditor in connection with preparing the auditor's report. It must also confirm that the director has taken all steps it ought to have taken to make himself aware of any relevant audit information and establish that the company's auditors is aware of the information.

In particular, the director must have made enquiries of his fellow directors and company's auditors as are required.

There are further and more detailed obligations for listed companies in relation to reporting responsibilities of auditors under the Combined Code.

Particulars of political donations and expenditure of a company must be given unless it did not exceed £2,000. Particulars of charitable donations in excess of £2,000 must also be given in the director's report.

In the case of companies with more than 250 employees the director's report must describe policies concerning the employment of disabled workers, its policies in relation to informing and consulting employees and its involvement of employees through such matters as share schemes etc.

The director's report must give details of acquisitions by or on behalf of the company of its own shares and the creation of charges on its own shares. The director's report of a medium or large company must contain an indication of the following matters in relation to the company or its groups:

- use of financial instruments;
- financial risk management obligations including policy for hedging major risks;
- exposure of company to price risk, credit risk, liquidity risk or cash flow risk.

Information is not required if it is not material for assessment of the assets, liabilities, financial position and profit and loss of the company.

Directors of a public company must state what its policy is on payment of creditors for the following year. The creditor days ratios for the financial period must be reported on. If the directors of a company discover that annual accounts do not comply with the requisite regulation they may prepare a revision.

This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.

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