**EXPLANATORY MEMORANDUM TO**

**THE COMPANIES, PARTNERSHIPS AND GROUPS (ACCOUNTS AND REPORTS) (No. 2) REGULATIONS 2015**

**2015 No. 1672**

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

## 2. Purpose of the instrument

2.1 The main purpose of the Regulations is to amend 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, in order to fully implement the provision on goodwill in Article 12 (6) (d) of the Accounting Directive 2013/34/EU (see regulations 3 and 4). This is a short, simple SI that will ensure an oversight in the transposition of the Accounting Directive is corrected. This SI is expected to have only a very limited impact on UK companies.

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

3.1 Regulation 5(3) corrects an error in regulation 3 of the Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 (S.I. 2015/980) ("the 2015 Regulations"). The Department does not consider it necessary to apply the free issue procedure to this instrument because:

a) the main purpose of the instrument is to implement the final words of Article 12(6)(d) of the Accounting Directive (i.e. to make new provision),
b) the correction made by regulation 5(3) is of minor importance and forms only a small part of the instrument, and
c) the target audience for regulation 5(3) will also need to know about regulation 2(3) of the instrument as it makes similar provision to regulation 3 of the 2015 Regulations.

## 4. Legislative Context

4.1 The Companies, Partnerships and Groups (Accounts and Reports) Regulations 2015 implemented chapters 1-9 of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660EEC and 83/349/EEC (OJ No L 182, 29.6.13, p 19) ("the Accounting Directive").

4.2 The Accounting Directive provided a wide range of options and requirements to update and consolidate earlier legislation on the preparation, presentation and filing of accounts. The 2015 Regulations came into force on 6 April 2015 and largely amended existing domestic legislation to implement the Directive.

4.3. The new Regulations add to the amendments made by the 2015 Regulations to correct an oversight in the transposition of Article 12(6)(d) of the Accounting Directive regarding the treatment of goodwill in accounts. The new Regulations also correct regulation 3 of the 2015 Regulations, to ensure that it is clear that amendments made by

the 2015 Regulations do not apply in relation to large and medium-sized Limited Liability Partnerships (LLPs).

## 5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom. The UK Government is responsible for company law in England and Wales and in Scotland. The Northern Ireland administration has agreed that, while company law remains a transferred matter within the legislative competence of the Northern Ireland Assembly, the Companies Act 2006 and associated legislation on companies and partnerships should apply to the whole of the United Kingdom.

## 6. European Convention on Human Rights

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

## 7. Policy background

- ***What is being done and why***

7.1 The 2015 Regulations implemented the options and requirements of the Accounting Directive which updated and consolidated a substantial body of EU legislation relating to the annual reports and accounts that are required of limited companies. However due to an oversight these Regulations did not fully implement the requirements of Article 12(6)(d) in the Accounting Directive with regard to the treatment of goodwill in the balance sheets.

7.2 Article 12 provides special provisions relating to certain balance sheet items. In particular, Article 12(6)(b) requires that value adjustments are made to fixed assets (including goodwill) that have declined in value if it is expected that the reduction in their value will be permanent. Article 12 (6) (d) requires that where the reasons for a lower valuation cease to apply the adjustment must be reversed. However the requirement to reverse the reduction in value when circumstances have changed does not apply to goodwill. The final words of Article 12 (6) (d) state that "…this provision shall not apply to value adjustments made in respect of goodwill". This part of the text was overlooked when the 2015 Regulations were drafted, and so regulations 3 and 4 of the new Regulations will implement those words.

7.3 The Accounting Directive does not apply to LLPs and consequently the amendments made by the 2015 Regulations are not intended to apply in relation to LLPs. The new Regulations amend regulation 3 of the 2015 Regulations to include a reference to an additional set of related Regulations – The Large and Medium-sized Limited Liability Partnerships (Accounts) Regulations 2008.

7.4 In summary, the new Regulations will correct an oversight in the implementation of Chapters 1 to 9 of the Accounting Directive. The new Regulations will ensure that the original policy intention regarding implementation of Chapters 1 to 9 is reflected in the legislation.

7.5 Public interest in the implementation of the Directive came from accounting and audit practitioners, representative bodies and national regulatory bodies. These stakeholders have been informed that these amendments are necessary.

- ***Consolidation***

7.6 The Regulations amend existing legislation and do not offer any opportunities for consolidation.

## 8. Consultation outcome

8.1 The consultation on the Department's approach to implementation of the Accounting Directive was drawn to the attention of a wide range of interested parties which included senior representatives from the accountancy and audit sector. There was broad support for our proposals. All responses to the consultation are available on the Gov.UK website. Since these amendments are to ensure that the legislation carries out the policy intent a separate consultation on these provisions was not necessary. However a number of stakeholders have seen (and approved) the Regulations in draft.

**https://www.gov.uk/government/consultations/eu-accounting-directive-smaller-companies-reporting**

## 9. Guidance

9.1 The implementation of the 2015 Regulations and these new Regulations will be supported by the Financial Reporting Council's ("FRC") accounting standards: FRS 101 and FRS 102. These standards will cover the provision on goodwill.

## 10. Impact

10.1 Businesses are already required to account for goodwill, so the Regulations will merely result in a change in the way in which it is dealt with in a particular circumstance. There will be some element of familiarisation but, particularly as the FRC have already covered it in their accounting standards, this will be minimal. Furthermore the circumstances in which a company is likely to contemplate a reversal in a reduction in the value of goodwill are not expected to arise often.

10.2 Since the impact assessment for the 2015 Regulations considered the totality of the effect of changes arising from the transposition of Chapters 1 to 9 of the Accounting Directive, no further impact assessment is necessary.

## 11. Regulating small business

11.1 The new Regulations apply to small business. As they form part of legislation implementing a Directive that reduces financial reporting burdens on small business there was no need to minimise their impact on small business.

## 12. Monitoring & review

12.1 The EU Commission will review the Directive by 21 July 2018. A parallel UK review will inform the wider review by the EU Commission. The UK review will be the responsibility of the Department for Business, Innovation and Skills. The effect of these Regulations will be covered as part of this review.

12.2 The success criteria for the Regulations is that they successfully amend the relevant legislation to ensure the original policy intent for our implementation of Chapters 1 to 9 of the Accounting Directive is fully reflected in the legislation.

## 13. Contact

13.1 John Conway at the Department for Business, Innovation and Skills.

Tel: 020 7215 6402 or email: john.conway@bis.gsi.gov.uk can answer any queries regarding the instrument.