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# Part B10 – Miscellaneous Provisions

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## Part B10 – Miscellaneous Provisions

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### Chapter 1

#### Directors

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#### Head 1 Particulars relating to directors to be shown on all business letters of certain companies

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Head 20 of Part A4 shall apply to the following companies -

- (a) every company registered under the Companies Acts, 1963-2006 or under the Companies (Consolidation) Act, 1908, unless it was registered before the 23rd day of November, 1916; and
- (b) every company licensed under the Moneylenders Act, 1933, whenever it was registered or whenever it established a place of business.

**Explanatory Note**

*Part A4 Head 20 is the equivalent of Section 196 (3) of the Companies Act, 1963. Language – “former companies”.*

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#### Head 2 Directors’ report to contain Disclosure Issue Notice

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The directors’ report referred to in Head 37 (1) of Part A6 shall contain a copy of any Disclosure Issue Notice issued under Section 33AK of the Central Bank Act, 1942 during the financial year ending with the relevant balance sheet date.

**Explanatory Note**

*This head is based on Subsection 158 (6B) of the Companies Act, 1963.*

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#### Head 3 Application of requirement to give approval to contracts of employment of directors under Head 27, Part A5

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No approval is required to be given under Head 27 of Part A5 by any body corporate unless it is a company within the meaning of this Bill or registered under Part B8 [equivalent of Part IX of the Companies Act, 1963] or if it is a wholly owned subsidiary of any body corporate, wherever incorporated.

**Explanatory Note**

*This head is based on Ssection 28(6) of the Companies Act, 1990.*

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## Chapter 2

### Shares

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#### **Head 4      Application of premiums received on issue of shares before the operative date**

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Where a company has, before the operative date, issued any shares at a premium, Part A3, Head 6 (5) shall apply as if the shares had been issued after the operative date, so however that any part of the premiums which has been so applied does not, at the operative date, form an identifiable part of the company's reserves within the meaning of the Schedules to Part A6, shall be disregarded in determining the sum to be included in the share premium account.

***Explanatory Note***

*This head is based on Section 62 (3) of the Companies Act, 1963.*

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#### **Head 5      Holding by subsidiary of shares in its holding company**

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Head 46 of Part A3, Head 16 of Part B3 and Head 21 of Part B4 [equivalent of Section 224 of the Companies Act, 1990] shall not apply to shares subscribed for, purchased or held by a subsidiary in its holding company pursuant to Section 9 (1) of the Insurance Act, 1990, save that the subsidiary shall not exercise any voting rights in respect of the shares, membership or other interests and any purported exercise of those rights shall be void.

***Explanatory Note***

*This head is based on Section 224 (6) of the Companies Act, 1990.*

## Chapter 3

### Reorganisation

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#### **Head 6      Restriction of the                  meaning of “company”                  for the purposes of                  Head 4 of Part A9**

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Notwithstanding the definition in Head 1 (1) of Part A9, “company” in Head 4 of Part A9 does not include any company other than a company within the meaning of this Bill.

***Explanatory Note***

*This head is based on Section 203 (5) of the Companies Act, 1963.*

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## Chapter 4

### Winding-Up

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#### Head 7 Application of Part A10

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Part A10 applies to any body liable to be wound up under this Bill.

**Explanatory Note**

*This head is based on Subsection 4(6) of the Companies (Amendment) Act, 1990.*

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#### Head 8 Saving for enactments providing for winding-up under former Companies Acts

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Nothing in this Bill shall affect the operation of any enactment which provides for any partnership, association or company being wound up, or being wound up as a company or as an unregistered company under the Companies Acts 1963-2006, the Companies (Consolidation) Act, 1908 or any enactment repealed by those Acts.

**Explanatory Note**

*This head is based on Section 350 of the Companies Act, 1963.*

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#### Head 9 Provisions as to winding-up proceedings commenced before the operative date

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- (1) The provisions of this Bill relating to winding-up (other than Subheads (2) and (3) of this head) shall not apply to any company of which the winding-up commenced before the operative date but every such company shall be wound up in the same manner and with the same incidents as if this Bill (apart from the enactments aforesaid) had not been passed, and for the purposes of the winding-up, the Act or Acts under which the winding-up commenced shall be deemed to remain in full force.
- (2) An office copy of every order staying the proceedings in a winding-up commenced as aforesaid, shall forthwith be forwarded by the company or by such person as the court may direct, to the Registrar for registration.

- (3) If a company fails to comply with Subhead (2), the company and every officer of the company who is in default shall be guilty of a category three offence, and if any other person fails to comply with Subhead (2) such person shall be guilty of a category three offence.

**Explanatory Note**

*This head is based on Section 398 of the Companies Act, 1963.*

## Chapter 5

### Bodies Incorporated Outside the State

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#### **Head 10 Proof of incorporation of companies incorporated outside the State**

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A copy of any Act by which a corporation is incorporated, purporting to be published by the Government publishers of any country prescribed by the Minister for the purposes of this head, shall, without further proof, be prima facie evidence of the incorporation of that corporation.

***Explanatory Note***

*This head is based on Section 388 of the Companies Act, 1963.*

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#### **Head 11 Extension of powers of investigation to certain bodies incorporated outside the State**

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Heads 3 to 5, 7, 8, 10 and 65 of Part A13 [equivalent of Sections 8 to 11, 13, 18 and 22 of the Companies Act, 1990] shall apply to all bodies corporate incorporated outside the State which are carrying on business in the State or have at any time carried on business therein as if they were companies registered under this Bill, subject to any necessary modifications.

***Explanatory Note***

*This head is based on Section 17 of the Companies Act, 1990.*

# Chapter 6

## Auditors

### Head 12 Qualification for appointment as auditor of a society or a friendly society

- (1) None of the following persons shall be qualified for appointment as a public auditor of a society—
- (a) an officer or servant of the society;
  - (b) a person who has been an officer or servant of the society within a period in respect of which accounts would fall to be audited by him if he were appointed auditor of the society;
  - (c) a parent, spouse, brother, sister or child of an officer of the society;
  - (d) a person who is a partner of or in the employment of an officer of the society;
  - (e) a person who is disqualified under this subhead for appointment as a public auditor of any other society that is a subsidiary or holding company of the society or a subsidiary of the society's holding company;
  - (f) a person who is disqualified under Subhead (2) for appointment as auditor of a company that is a subsidiary or holding company of the society;
  - (g) a body corporate.
- (2) None of the following persons shall be qualified for appointment as a public auditor of a friendly society—
- (a) an officer or servant of the friendly society;
  - (b) a person who has been an officer or servant of the friendly society within a period in respect of which accounts would fall to be audited by him if he were appointed auditor of the friendly society;
  - (c) a parent, spouse, brother, sister or child of an officer of the friendly society;
  - (d) a person who is a partner of or in the employment of an officer of the friendly society;
  - (e) a body corporate.
- (3) A person shall not, by virtue of subhead(1) or (2), be disqualified for appointment as public auditor of a society or a friendly society at any time during the period of 2 years from the commencement of this head, if on such commencement he stands duly appointed as public auditor of the society or friendly society, as the case may be.
- (4)
- (a) In this head, "society" means a society registered under the Industrial and Provident Societies Acts, 1893 to 1978;
  - (b) In this head "friendly society" means a society registered under the Friendly Societies Acts, 1896 to 1977;
  - (c) References in this head to an officer or servant do not include references to an auditor or a public auditor.
- (5)
- (a) The Director of Corporate Enforcement may demand of a person acting as a public auditor, or purporting to be qualified to so act, the production of evidence of his qualifications under head 103 (1) of Part A6 in respect of any time or period during which he so acted or purported to be qualified to so act, and if the person refuses or fails to produce the evidence within 30 days of the demand, or such longer period as the Director may allow, he shall be guilty of a category three offence;
  - (b) In a prosecution for an offence under this subhead, it shall be presumed, until the contrary is shown by the defendant, that the defendant did not, within 30 days or any longer period allowed after the day on which the production was demanded, produce evidence in accordance with paragraph (a).

#### **Explanatory Note**

*This head is based on Sections 187 (3)-(5), (10) and (12) of the Companies Act, 1990.*

### **Head 13 Prohibition on acting in relation to audit while disqualification order is in force**

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In Head 106 of Part A6—

“company” has the meaning assigned to it by Head 41 of Part A13 [equivalent of Section 159 of the Companies Act, 1990], and also includes any society registered under the Industrial and Provident Societies Acts, 1893 to 1978;

“disqualification order” has the meaning assigned to it by Head 41 of Part A13 [equivalent of Section 159 of the Companies Act, 1990].

#### ***Explanatory Note***

*This head is based on Subsection 195 (3) of the Companies Act, 1990.*

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### **Head 14 Restriction of Section 58 of the Solicitors Act 1954**

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Notwithstanding Section 58 of the Solicitors Act, 1954, a person to whom Head 102(1)(a) of Part A6 [previously paragraphs (a) and (b) of subsection (1) of Section 162 – now repealed] applies may draw or prepare any document for the purposes of this Bill other than a deed, constitution, memorandum of association or articles of association.

#### ***Explanatory Note***

*This head is based on Section 397 of the Companies Act, 1963.*

## Chapter 7

Investment companies, insurance companies, licensed banks and other financial institutions

### Head 15 Special provisions where a company is an investment company

- (1) Paragraph 36 of the First Schedule to Part A6 [equivalent of paragraph 22 of the Schedule to the Companies (Amendment) Act, 1986] shall not apply to the amount of any profit or loss arising from a determination of the value of any investments of an investment company on any basis mentioned in subparagraph 33 (3) of the First Schedule to Part A6 [equivalent of paragraph 19 (3) of the Schedule to the Companies (Amendment) Act, 1986].
- (2) Any provisions made by virtue of subparagraphs (1) or (2) of paragraph 21 of the First Schedule to Part A6 [equivalent of subparagraph (1) or (2) of paragraph 7 of the Schedule to the Companies (Amendment) Act, 1986] in the case of an investment company in respect of any fixed asset investments need not be charged to the company's profit and loss account if they are either—
  - (a) charged against any reserve account to which any amount excluded by Subhead (1) from the requirements of the said paragraph 36 of the First Schedule to Part A6 [equivalent of paragraph 22 of the Schedule to the Companies (Amendment) Act, 1986] has been credited; or
  - (b) shown as a separate item in the company's balance sheet under the sub-heading "other reserves".
- (3) For the purposes of this head as it applies in relation to any company, "fixed asset investment" means any asset falling to be included under any item shown in the company's balance sheet under the subdivision "financial assets" under the general item "fixed assets".
- (4) Any distribution made by an investment company which reduces the amount of its net assets to less than the aggregate of its called-up share capital and undistributable reserves shall be disclosed in a note to the company's financial statements.

- (5) In this head, "net assets" means the aggregate of the company's assets less the aggregate of its liabilities, and "liabilities" includes—
  - (a) any provision for liabilities within the meaning of paragraph 79 of the First Schedule to Part A6 [equivalent of paragraph 70 of the Schedule to the Companies (Amendment) Act, 1986] that is made in entity financial statements; and
  - (b) any provision that is made in IFRS entity financial statements.
- (6) A company shall be treated as an investment company for the purposes of this head in relation to any financial year of the company if—
  - (a) during the whole of that year, it was an investment company within the meaning of Part B9;
  - (b) it was not at any time during that year, prohibited by Head 40 of Part B9 [equivalent of Section 47 of the Companies (Amendment) Act, 1983] from making a distribution.

#### Explanatory Note

*This head is based on paragraphs 56-58 of the Schedule to the Companies (Amendment) Act, 1986.*

### Head 16 Realised profits of assurance companies

- (1) In the case of an assurance company carrying on life assurance business, or industrial assurance business or both, any amount properly transferred to the profit and loss account of the company from a surplus in the fund or funds maintained by it in respect of that business and any deficit in that fund or those funds shall be respectively treated for the purposes of Part A3 as a realised profit and a realised loss, and, subject to the foregoing, any profit or loss arising on the fund or funds maintained by it in respect of that business shall be left out of account for those purposes.

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- (2) In Subhead (1)—
- (a) the reference to a surplus in any fund or funds of an assurance company is a reference to an excess of the assets representing that fund or those funds over the liabilities of the company attributable to its life assurance or industrial assurance business, as shown by an actuarial investigation; and
  - (b) the reference to a deficit in any such fund or funds is a reference to the excess of those liabilities over those assets, as so shown.
- (3) In this head—
- “actuarial investigation” means an investigation to which Section 5 of the Assurance Companies Act, 1909 applies;
- “life assurance business” and “industrial assurance business” have the same meanings as in Section 3 of the Insurance Act, 1936.
- (a) it is entered into in the ordinary course of the company’s business; and
- (b) its value is not greater, and its terms no more favourable, in respect of the person for whom it is made, than that or those which—
- (i) the company ordinarily offers, or
  - (ii) it is reasonable to expect the company to have offered,
- to or in respect of a person of the same financial standing but unconnected with the company.
- (3) Subject to Heads 25 (11) and 26 (6) of Part A6 [equivalent of Section 45 of the Companies Act, 1990], a company which is, or is the holding company of, a licensed bank shall, before its annual general meeting, make available, at the registered office of the company for not less than the period of 15 days ending with the date of the meeting, for inspection by members of the company, a statement containing the particulars of transactions, arrangements and agreements which the company would, but for Head 25 (13) of Part A6 [equivalent of section 41 (6) of the Companies Act, 1990], be required by heads 25 (1) or (2) of Part A6 [equivalent of Subsections (1) and (2) of section 41 of the Companies Act, 1990] to disclose in its statutory financial statements for the last complete financial year preceding that meeting and such a statement shall also be made available for inspection by the members at the annual general meeting.

### **Explanatory Note**

*This head is based on Section 48 of the Companies (Amendment) Act, 1983.*

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## **Head 17 Provisions relating to licensed banks**

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- (1) Subject to Heads 25 (11) and 26 (6) of Part A6 [equivalent of Section 45 of the Companies Act, 1990], a company which is, or is the holding company of, a licensed bank, shall maintain a register containing banks, a copy of every transaction, arrangement or agreement of which particulars would, but for Head 25 (13) of Part A6 [equivalent of Section 41 (6) of the Companies Act, 1990], be required by heads 25 (1) or (2) of Part A6 and heads 26 (1) and (2) of Part A6 [equivalent of subsections (1) and (2) of section 41 of the Companies Act, 1990] to be disclosed in the company’s statutory financial statements for the current financial year and for each of the preceding ten financial years (but excluding any financial year ending prior to the passing of this Bill) or, if such a transaction, arrangement or agreement is not in writing, a written memorandum setting out its terms.
- (2) Subhead (1) shall not require a company to keep in its register, a copy of any transaction, arrangement or agreement made for a connected person if—
- (a) it is entered into in the ordinary course of the company’s business; and
- (b) its value is not greater, and its terms no more favourable, in respect of the person for whom it is made, than that or those which—
- (i) the company ordinarily offers, or
  - (ii) it is reasonable to expect the company to have offered,
- to or in respect of a person of the same financial standing but unconnected with the company.
- (4) Subhead (3) shall not require the inclusion in the statement of particulars of any transaction, arrangement or agreement if—

- (5) It shall be the duty of the auditors of the company to examine any such statement before it is made available to the members of the company in accordance with Subhead (3) and to make a report to the members on that statement; and the report shall be annexed to the statement before it is made so available.
- (6) A report under Subhead (5) shall state whether in the opinion of the auditors the statement contains the particulars required by Subhead (3) and, where their opinion is that it does not, they shall include in the report, so far as they are reasonably able to do so, a statement giving the required particulars.
- (7) Subhead (3) shall not apply in relation to a licensed bank which is for the purposes of Part A1, Head 15 [equivalent of Section 150 of the Companies Act, 1963] the wholly owned subsidiary of a company incorporated in the State.
- (8) Where a company fails to comply with Subhead (1) or (3), the company and every person who at the time of that failure is a director of the company, shall be guilty of a category two offence.
- (9) It shall be a defence in proceedings for an offence under Subhead (8) for the defendant to prove that he took all reasonable steps for securing compliance with Subheads (1) or (3), as the case may be.

**Explanatory Note**

*This head is based on Section 44 of the Companies Act, 1990.*

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**Head 18 Scope of Heads 4 and 6 of Part B7**

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Heads 4 and 6 of Part B7 shall not apply to companies that are credit institutions and financial institutions within the meaning of Council Directive 89/117/EEC.

**Explanatory Note**

*This head is based on Regulation 11 (6) of the European Communities (Branch Disclosures) Regulations 1993.*

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**Head 19 Certification of copies or extracts of documents kept by the Central Bank and Financial Services Authority of Ireland**

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A document purporting to be a copy of, or extract from, any document kept by the Central Bank and Financial Services Authority of Ireland and that is certified by—

- (a) the Chief Executive of the Irish Financial Services Regulatory Authority; or
- (b) any person authorised by the Chief Executive of the Irish Financial Services Regulatory Authority,

to be a true copy of, or extract from, the document so kept is, without proof of the official position of the person purporting to so certify, admissible in evidence in all legal proceedings as of equal validity with the document so kept.

**Explanatory Note**

*This head is based on Section 110A (8A) of the Company Law Enforcement Act, 2001.*

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**Head 20 Validity of regulations made under the Credit Union Act 1966 by the Credit Union Act 1997**

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- (1) Notwithstanding the repeal of Section 35 (1) (i) of the Credit Union Act, 1966 by the Credit Union Act, 1997, the specified regulations made under that section continue, and shall be deemed always to have continued, to have full force and effect from the coming into operation of the specified regulations until the passing of this Bill.
- (2) Nothing in this head shall affect any proceedings commenced in any court concerning the validity of the specified regulations where those proceedings were commenced before the passing of this Bill.
- (3) In this head, “specified regulations” means-
  - (a) the Industrial and Provident Societies (Financial Limits) Regulations 1985, (S.I. No. 392 of 1985); and

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- (b) the Industrial and Provident Societies  
(Financial Limits) (Amendment)  
Regulations, 1990 (S.I. No. 246 of 1990).

### **Explanatory Note**

*This head is based on Section 86 of the Investment Funds, Companies and Miscellaneous Provisions Act, 2005.*

## Chapter 8

### Exercise of indirect control

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#### Head 21 Exercise of indirect control by a PLC

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For the purposes of Chapter 6 of Part A3 [equivalent of Part XI of the Companies Act, 1990], a PLC exercises its control indirectly where the control of a subsidiary is exercised through another subsidiary, pursuant to Head 6 (1) (b) of Part A1 [equivalent of Section 155 (1) (b) of the Companies Act, 1963].

**Explanatory Note**

*This head is based on Regulation 4 (3) of the European Communities (Public Limited Companies Subsidiaries) Regulations, 1997.*

## Chapter 9

### Registration of charges on land

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#### **Head 22    Effect of provisions               of former Companies               Acts on registration of               charges on land**

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Paragraph 10 (1) (d) of the Companies Act 1907; paragraph 93 (1) (d) of the Companies (Consolidation) Act, 1908; and paragraph 99 (2) (d) of the Companies Act, 1963 (by virtue whereof charges created on land by a company required registration under those Acts respectively), shall be deemed never to have applied to a charge for any rent or other periodical sum issuing out of the land.

***Explanatory Note***

*This head is based on Section 108 of the Companies Act, 1963.*

# Chapter 10

## Partnerships

### Head 23 Definition and interpretation of “partnership” and “limited partnership”

(1) In this Part:

“partnership” has the same meaning as in the Partnerships Act, 1890;

“limited partnership” means a partnership to which the Limited Partnerships Act 1907, applies.

(2) Save as otherwise provided, in this Part the term “partner” shall not include a limited partner.

#### **Explanatory Note**

*The definitions in Subhead(1) are taken from paragraph 3 (1) of the European Communities (Accounts) Regulations, 1993.*

*Subhead (2) is based on paragraph 8 (1) of the European Communities (Accounts) Regulations, 1993.*

### Head 24 Prohibition of partnerships with more than twenty members

- (1) No company, association or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any business (other than the business of banking), that has for its object the acquisition of gain by the company, association or partnership, or by the individual members thereof, unless—
- (a) it is registered as a company under this Bill;
  - (b) it is formed in pursuance of some other statute; or
  - (c) it is a partnership formed for the purpose of—
    - (i) carrying on practice as accountants in a case where each partner is a person who is qualified under 102(1)(a) of Part A6 [previously paragraphs (a) and (b) of Subsection (1) of Section 162 of the Companies Act, 1963 – now repealed],

(ii) carrying on practice as solicitors in a case where each partner is a solicitor,

(iii) carrying on or promoting the business of thoroughbred horse breeding and which is a partnership to which the Limited Partnerships Act, 1907, relates (subject to subsection (2)) or

(iv) the provision of investment and loan finance and ancillary facilities and services to persons engaged in industrial or commercial activities, which consists of not more than 50 partners, and which is a partnership to which the Limited Partnerships Act 1907 relates.

(2) The provisions of Section 4 (2) of the Limited Partnerships Act, 1907 shall not apply to the partnerships specified in paragraph (1)(c) of this head nor to a partnership specified in an order made pursuant to Subhead (4) of this head.

(3) This head does not apply to an investment limited partnership for the purposes of the Investment Limited Partnerships Act, 1994.

(4) The Minister may, by an order made under this head declare that the provisions of this head shall not apply to a partnership that is of a description, and that has been or is formed for a purpose, specified in the order.

(5) Every order made under Subhead (5) of this head shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(6) The Minister may revoke or amend an order made under this head, including this Subhead.

#### **Explanatory Note**

*This head is based on Section 376 of the Companies Act 1963, as amended by Section 13 of the Companies (Amendment) Act, 1983, the Companies (Amendment) Act, 1982 (Section 13(2)) Order 1988 and the Companies (Amendment) Act, 1982 (Section 13(2)) Order 2004.*

*Subhead (3) re-enacts Section 4(4) of the Investment Limited Partnerships Act, 1994.*

*Subheads (4)-(6) re-enact Sections 13(2)-(4) of the Companies (Amendment) Act, 1983.*

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### Head 25 Prohibition of banking partnerships with more than ten members

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No company, association or partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless it is registered as a company under this Bill, or is formed in pursuance of some other statute.

#### **Explanatory Note**

*This head is based on Section 372 of the Companies Act, 1963.*

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### Head 26 Signing of statutory financial statements in the case of a banking company registered after 15 August 1879

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In the case of a banking company registered after 15 August 1879, the statutory financial statements must be signed for the purposes of Head 36 of Part A6 by the secretary and where there are more than 3 directors of the company, by at least 3 of those directors, and where there are not more than 3 directors, by all the directors.

#### **Explanatory Note**

*This head is based on Section 156 (2) of the Companies Act 1963.*

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### Head 27 Financial Statements, Annual Return and Audit of a designated partnership

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- (1) The term “designated partnerships” refers to the following partnerships -
- (a) Partnerships where all the partners thereof who do not have a limit on their liability are -
    - (i) companies limited by shares or by guarantee, or
    - (ii) bodies not governed by the law of the State but equivalent to those in subparagraph (i), or

- (iii) any combination of the types of bodies referred to in subparagraphs (i) and (ii); and

- (b) Unlimited companies and partnerships where all the members thereof who do not have a limit on their liability are -

- (i) partnerships of the type referred to in paragraph (a) that are governed by the laws of a Member State, or
- (II) unlimited companies, all the members whereof are bodies of the types set out in subparagraphs (i) to (iii) of paragraph (a), or
- (III) bodies governed by the laws of a Member State that are of a legal form comparable to those referred to in paragraph (i), or

- (ii) any combination of the types of bodies referred to in subparagraph (a) and subparagraphs (a) and (b) of paragraph (1).

- (2) The term “non-designated partnership” refers to all partnerships that are not designated partnerships.
- (3) The provisions of Part A6 shall apply to a designated partnership, subject to the exclusions and qualifications contained in this Chapter, with any modifications necessary to account for the fact that such bodies are unincorporated.
- (4) Any reference in Part A6 to directors shall, in the case of a designated partnership, be construed as a reference to the partners of such partnerships and any duties, obligations or discretion imposed on or granted to such directors shall be deemed to be imposed on or granted to such partners.
- (5) Any reference in Part A6 to voting rights means, with regard to the partners in a designated partnership, the rights conferred on partners to vote on matters concerning, or otherwise direct, the overall policy of the undertaking.

#### **Explanatory Note**

*Subhead (1) and (3) are based on Regulation 6 and paragraph 7 (3) of the European Communities (Accounts) Regulations, 1993.*

*Subhead (4) is based on Regulation 11 of the European Communities (Accounts) Regulations 1993, It also implements Regulation 3 (2) of the European Communities (Companies: Group Accounts) Regulations, 1992.*

*Subhead(5) re-enacts Regulations 3 (4) and (5) of the European Communities (Companies: Group Accounts) Regulations, 1992.*

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### **Head 28 Approval and signing of statements by designated partnerships**

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- (1) Head 36 of Part A6 shall apply to a designated partnership, subject the condition that the statutory financial statements of a designated partnership shall be approved by the partners and shall be signed on behalf of the partners by two of the partners authorised by the partners to do so.
- (2) In the case of designated partnerships, the statement required by Head 63 (1) of Part A6 [equivalent of Subsection 18 (2) of the 1986 Act shall be in a position on the balance sheet immediately above the signatures required by Subhead (1).
- (3) The report required to be prepared under Head 37 of Part A6 shall be signed on behalf of the partners by two of the partners authorised by the partners to do so.
- (4) Where, in the case of a designated partnership, the partners decide to give the information specified in Head 27 (1) of Part A6 [equivalent of subsection 16 (1) of the Companies (Amendment) Act, 1986], by way of a separate statement in accordance with Head 29 (1) of Part A6 [equivalent of Section 16 (3) of the Companies (Amendment) Act, 1986], the said statement shall be signed on behalf of the partners by two of the partners and a copy of that statement, certified by two of the partners to be a true copy of such a statement shall be returned to the Registrar with the accounts for that particular financial year.

#### **Explanatory Note**

*Subhead (1) is based on Regulation 10 of the European Communities (Accounts) Regulations, 1993.*

*Subhead (2) is based on Regulation 13 (5) of the European Communities (Accounts) Regulations, 1993.*

*Subhead (3) is based on Regulation 14 (2) of the European Communities (Accounts) Regulations, 1993.*

*Subhead (4) is based on Regulation 15 of the European Communities (Accounts) Regulations, 1993.*

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### **Head 29 Partners' report**

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Chapter 9 of Part A6 shall apply to a designated partnership subject to the condition that the report required to be prepared thereunder shall be known as a "partners' report".

#### **Explanatory Note**

*This head is based on Regulation 14 of the European Communities (Accounts) Regulations, 1993.*

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### **Head 30 Application of Head 65 of Part A6**

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- (1) Subject to Subhead (2), Head 65 of Part A6 [equivalent of subsection 17 (2) of the Companies (Amendment) Act, 1986] shall apply to a designated partnership.
- (2) In the case of a designated partnership—
  - (a) the reference in Head 65 of Part A6 [equivalent of Section 17 of the Companies (Amendment) Act, 1986] to the provisions of Head 55 of Part A6 [equivalent of Section 7 of the Companies (Amendment) Act, 1986] shall be construed as a reference to the corresponding provision in this Chapter; and
  - (b) paragraph 65 (1) (a) of Part A6 [equivalent of Section 17 (1) (a) of the Companies (Amendment) Act, 1986] shall not apply, but all the partners including, in the case of a limited partnership, a limited partner must declare in writing, their consent to the exemption in respect of a financial year before the partnership can stand exempted from the requirement in respect of that year; and
  - (c) the notification procedure referred to in paragraph 65 (1) (b) of Part A6 [equivalent of Head 17 (1) (b) of the Companies (Amendment) Act, 1986] shall not apply, but a certified copy of the guarantee referred to in that subhead in respect of a financial year must be forwarded to all the partners including, in the case of a limited partnership, a limited partner before the partnership can stand exempted from the requirement in respect of that year; and

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- (d) paragraphs 65 (1) (f) and (g) [equivalent of Section 17 (1) (d) and (f) [of the Companies (Amendment) Act, 1986] shall not apply but the partners shall, in respect of each financial year for which it avails of the exemption, return to the Registrar, in lieu of the accounts referred to in Part A6 Head 55(1) [equivalent of Regulation 20 of the European Communities (Accounts) Regulations 1993]:
- (i) a notice stating that the partnership has availed of the exemption under the said Head 65 of Part A6 [equivalent of Section 17 of the Companies (Amendment) Act 1986],
  - (ii) the declarations referred to in paragraph (h) in respect of that financial year,
  - (iii) a certified copy of the guarantee referred to in paragraph (c) for that financial year,
  - (iv) the group accounts of the parent undertaking prepared in accordance with the Seventh Council Directive or international financial reporting standards and audited in accordance with Article 37 of the Seventh Council Directive.

**Explanatory Note**

*This head is based on Regulation 16 of the European Communities (Accounts) Regulations, 1993.*

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## **Head 31    Group financial statements of partnerships**

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Head 19 of Part A6 [equivalent of Regulation 7 of the European Communities (Companies: Group Accounts) Regulations, 1992] shall apply to a parent undertaking that is a designated partnership as it applies to private companies under that head.

**Explanatory Note**

*This head is based on Regulation 17 of the European Communities (Accounts) Regulations, 1993.*

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## **Head 32    Application of Head 34 of Part A4 to partnerships**

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Head 34 of Part A4 shall apply to a designated partnership, subject to the conditions set out in Part B10, Head 27 (4) and (5).

**Explanatory Note**

*This head is based on Sections 205B (14) and (15) of the Companies Act, 1990.*