

FRED 48: The Financial Reporting Standard applicable in the UK and Republic of Ireland - ROI legal references

Introduction to table of Republic of Ireland legal references

This table shows the provisions in the Companies Acts 1963 to 2009 and various Regulations which implement EC Accounting Directives, corresponding to the provisions of the UK Companies Act 2006 ('the 2006 Act') and the Schedules to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 ('the 2008 Regulations') referred to in the [draft] FRS. The principal pieces of companies' legislation referred to in the table below are:

- The Companies Act, 1963 ('1963 Act');
- The Companies (Amendment) Act, 1983 ('1983 Act');
- The Companies (Amendment) Act, 1986 ('1986 Act');
- The European Communities (Companies: Group Accounts) Regulations, 1992 - SI 201 of 1992 ('Group Accounts Regulations 1992' or 'GAR 1992');
- The European Communities (Credit Institutions: Accounts) Regulations, 1992 - SI 294 of 1992 - ('Credit Institutions Regulations 1992' or 'CIR 1992');
- The European Communities (Insurance Undertakings: Accounts) Regulations, 1996 - SI 23 of 1996 - ('Insurance Undertakings Regulations 1996' or 'IUR 1996').

Other Irish legislation referenced in the table below is:

- The Building Societies Act, 1989
- The Credit Union Act, 1997
- The Central Bank Act, 1971
- The Charities Act, 2009
- Industrial and Provident Societies (Amendment) Act, 1978
- Pensions Act, 1990
- Occupational Pension Schemes (Disclosure of Information) Regulations, 2006

Where general references are made in the [draft] FRS to the 'Companies Act 2006 ('and the Regulations)', the Companies Act', 'the Act', 'the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations, 2008' and 'the Regulations', for the Irish context, readers should refer to the relevant sections and paragraphs of the above Acts and Regulations. Such general references are not included in the table below.

Small companies under Irish law

There is no equivalent to the *small companies regime* in Irish law. Section 8 of the Companies (Amendment) Act, 1986 (as amended by Regulation 4 of the European Communities (Accounts) Regulations, 1993 (S.I. No. 396 of 1993) defines small companies under Irish law, whilst Sections 10 and 12 provide certain exemptions for such companies in filing their financial statements with the Registrar of Companies. Under Section 8 the qualifying conditions for a company to be treated as a small company in respect of any financial year are as follows:

- (i) its balance sheet total for that year shall not exceed €1,904,607,
- (ii) the amount of its turnover for that year shall not exceed €3,809,214, and
- (iii) the average number of persons employed by the company in that year shall not exceed 50.

Except for companies in their first financial year, Section 8(1)(a) establishes that companies qualify to be treated as small if, in respect of that year and the financial year, immediately preceding that year, the company satisfies at least two of the above criteria. Section 9 establishes that where a company has qualified as small, it continues to be so qualified until it does not meet two of the above three criteria for two consecutive years. Similarly, where a company no longer qualifies as small, two consecutive years of meeting two of the three criteria are required to qualify again as small.

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Entities subject to the European Communities (Credit Institutions: Accounts) Regulations, 1992 ('CIR 1992'), to the European Communities (Insurance Undertakings: Accounts) Regulations, 1996 ('IUR 1996') and private companies whose securities are admitted to trading on a regulated market do not qualify as small under Irish company law.

Size exemptions from the preparation of group accounts under Irish law

In Ireland, there is an exemption from the preparation of group accounts for medium sized groups under The European Communities (Companies: Group Accounts) Regulations, 1992. An Irish parent company within the scope of these Regulations is exempt from the requirement to prepare group accounts if it meets the size and other criteria set out in Regulation 7. The size criteria in summary require that the parent and subsidiaries together meet two of the following three conditions:

- (i) Balance sheet total does not exceed €7,618,428;
- (ii) Turnover does not exceed €15,236, 858; and
- (iii) Average number of employees does not exceed 250.

Exemptions from preparing consolidated financial statements on the basis of size are not available to parent entities subject to the European Communities (Credit Institutions: Accounts) Regulations, 1992 or the European Communities (Insurance Undertakings: Accounts) Regulations, 1996.

Other notes

As noted in paragraph A3.3 of the [draft] FRS, while the UK company law references are made to Schedule 1 to the 2008 Regulations, entities applying Schedules 2 (banking companies) or 3 (insurance companies) to those Regulations should read them as referring to the equivalent paragraphs in those Schedules. In the table below, the corresponding or similar provisions in Irish company law are specifically set out.

This table is intended as a reference guide to the corresponding or similar provisions in Irish company law and does not purport to be comprehensive. Readers should note that not all Irish provisions are exactly equivalent to the corresponding UK provisions and are advised to refer to the Irish legislation for an understanding of relevant legal points. Readers should also be aware that various sections, regulations and paragraphs referenced below have been amended by subsequent legislation and readers should ensure that they refer to such amended text where applicable.

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	UK References	ROI References					
Paragraph	2006 Act and the 2008 Regulations (unless otherwise stated)	1963 Act	1983 Act	1986 Act	GAR 1992	CIR 1992	IUR 1996

SUMMARY

8	Smaller entities as defined by CA 2006	There is no equivalent in Irish law to the <i>small companies regime</i> or to the Small Companies and Groups (Accounts and Directors' Report) Regulations 2008. Small companies are defined in Section 8 of the 1986 Act. Please refer to the note in the introduction above.					
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SECTION 1

1.2(b) & footnote	Section 395(1)(a)	Section 148(2)(a)				Regulation 5(1)	Regulation 5(1)
1.2(b) & footnote	Section 395(1)(b)	Section 148(2)(b)				Regulation 5(1)	Regulation 5(1)
1.8 & footnote	Paragraph 36(4) of Schedule 1			Paragraph 22AA of Part IIIA of the Schedule	Regulation 15 (applying the Schedule to the 1986 Act)	Paragraphs 46A(4A) and 46A(4B) of Part I and paragraph 1 of Part II of the Schedule	
1.10	Section 399	Section 150(1)				Regulation 7(3)	Regulation 10(3)
1.10	Sections 400-401				Regulations 8, 9, 9A	Regulations 8 and 8A	Regulations 12, 12A
1.10	Section 402	No specific corresponding Irish law provision, except for paragraph 2(8) of Part II to the Schedule of the CIR 1992.					

SECTION 4: STATEMENT OF FINANCIAL POSITION

4.2	Schedule 1			Sections 4, 5 and 6 & the Schedule			
4.2	Schedule 2					Part I of the Schedule	
4.2	Schedule 3						Regulations 6, 7 and 8 & Parts I, II and III of the Schedule

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UK References		ROI References					
Paragraph	2006 Act and the 2008 Regulations (unless otherwise stated)	1963 Act	1983 Act	1986 Act	GAR 1992	CIR 1992	IUR 1996
4.2	Schedule 6				Regulations 15 to 35 & the Schedule	Part II of the Schedule	Regulations 6, 7, 8 and 10 & Parts I, II and III, as modified by Part IV, of the Schedule
Footnote to 4.2	Company law definition of a banking company in Section 1164	<p>There is no equivalent definition of a ‘banking company’ in Irish company law. Banks in Ireland are licensed under Section 9 of the Central Bank Act 1971. A company, to which Section 2(2) of the 1986 Act applies, includes the following:</p> <ul style="list-style-type: none"> • a company that is the holder of a licence under the Central Bank Act 1971; • a company that is a trustee savings bank certified under the Trustee Savings Banks Acts, 1863 to 1965; • a company engaged solely in the making of hire-purchase agreements and credit-sale agreements (with the meaning of the relevant Acts); and • a company engaged in the business of accepting deposits or other repayable funds or granting credit for its own account. <p>These entities comply with the Credit Institutions Regulations 1992 in preparing their financial statements.</p>					
Footnote to 4.2	Company law definition of an insurance company in Section 1165	<p>There is no equivalent definition of ‘insurance company’ in Irish company law. Irish life insurance undertakings, non-life insurance undertakings and reinsurance undertakings are licensed by the Central Bank in accordance with Article 6 of the European Communities (Life Insurance) Framework Regulations 1994, Article 6 of the European Communities (Non-life Insurance) Framework Regulations 1994 and Article 8 of the European Communities (Reinsurance) Regulations 2006. These entities are subject to the Insurance Undertakings Regulations 1996 pursuant to Regulation 3 of those Regulations and Section 2(3) of the 1986 Act.</p>					

SECTION 5: STATEMENT OF COMPREHENSIVE INCOME AND INCOME STATEMENT

5.5 & 5.7	Schedule 1			Sections 4, 5 and 6 & the Schedule			
5.5 & 5.7	Schedule 2					Part I of the Schedule	

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	UK References	ROI References					
Paragraph	2006 Act and the 2008 Regulations (unless otherwise stated)	1963 Act	1983 Act	1986 Act	GAR 1992	CIR 1992	IUR 1996
5.5 & 5.7	Schedule 3						Regulations 6, 7 and 8 & Parts I, II and III of the Schedule
5.5 & 5.7	Schedule 6				Regulations 15 to 35 & the Schedule	Part II of the Schedule	Regulations 6, 7, 8 and 10 & Parts I, II and III, as modified by Part IV of the Schedule
Footnote to 5.5	Section 1164	<p>There is no equivalent definition of a ‘banking company’ in Irish company law. Banks in Ireland are licensed under Section 9 of the Central Bank Act 1971. A company, to which Section 2(2) of the 1986 Act applies, includes the following:</p> <ul style="list-style-type: none"> • a company that is the holder of a licence under the Central Bank Act 1971; • a company that is a trustee savings bank certified under the Trustee Savings Banks Acts, 1863 to 1965; • a company engaged solely in the making of hire-purchase agreements and credit-sale agreements (with the meaning of the relevant Acts); and • a company engaged in the business of accepting deposits or other repayable funds or granting credit for its own account. <p>These entities comply with the Credit Institutions Regulations 1992 in preparing their financial statements.</p>					
Footnote to 5.5	Section 1165	<p>There is no equivalent definition of ‘insurance company’ in Irish company law. Irish life insurance undertakings, non-life insurance undertakings and reinsurance undertakings are licensed by the Central Bank in accordance with Article 6 of the European Communities (Life Insurance) Framework Regulations 1994, Article 6 of the European Communities (Non-life Insurance) Framework Regulations 1994 and Article 8 of the European Communities (Reinsurance) Regulations 2006. These entities are subject to the Insurance Undertakings Regulations 1996 pursuant to Regulation 3 of those Regulations and Section 2(3) of the 1986 Act.</p>					

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Paragraph	2006 Act and the 2008 Regulations (unless otherwise stated)	1963 Act	1983 Act	1986 Act	GAR 1992	CIR 1992	IUR 1996

SECTION 9: CONSOLIDATED AND SEPARATE FINANCIAL STATEMENTS

9.3	Section 400(2)				Regulations 8(3) and 9(1)	Regulation 8(3)	Regulation 12(3)
9.3	Section 400(1)(b)				Regulation 9	Regulations 8(1), (2) and (6)	Regulations 12(1), (2) and (6)
9.3	Section 401(2)				Regulation 9A(3)	Regulation 8A(3)	Regulation 12A(3)
9.3	Section 401(1)(b)				Regulation 9A(1)(b)	Regulation 8A(1)(b)	Regulation 12A(1)(b)
9.27B	Paragraph 36(4) of Schedule 1 to the Regulations			Paragraph 22AA of Part IIIA of the Schedule	Regulation 15 (applying the Schedule to the 1986 Act)	Paragraphs 46A(4A) and 46A(4B) of Part I and paragraph 1 of Part II of the Schedule	

SECTION 25: BORROWING COSTS

25.3	Schedule 1 to the Regulations			Sections 4, 5 and 6 & the Schedule			
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SECTION 34: SPECIALISED ACTIVITIES

34.18		Legal references in the definition of a financial institution are dealt with in the Glossary of Terms section below.					
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SECTION 35: TRANSITION TO THIS [DRAFT] FRS

35.10(m)	Companies Act definition of a dormant company	Irish company law does not contain an equivalent definition.					
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	UK References	ROI References					
Paragraph	2006 Act and the 2008 Regulations (unless otherwise stated)	1963 Act	1983 Act	1986 Act	GAR 1992	CIR 1992	IUR 1996

GLOSSARY OF TERMS

34.18 and the Glossary, definition of 'financial institution' & * footnote	Part IV permission* *S. 40(4) of the Financial Services and Markets Act 2000	There is no equivalent legislation in Ireland to the Financial Services and Markets Act 2000. Banks in Ireland are licensed under Section 9 of the Central Bank Act, 1971.					
34.18 and the Glossary, definition of 'financial institution'	Section 119(1) of the Building Societies Act	Building Societies Act 1989, Section 2(1)					
34.18 and Glossary, definition of 'financial institution'	A body corporate registered under the Industrial and Provident Societies Act 1965 as a credit union in accordance with the Credit Unions Act 1979	Credit Union Act, 1997, Sections 2(1) and 5(3)					
Glossary, 'the term individual accounts, from the Act'	The term individual accounts from the Act	Sections 148 and 149					

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Paragraph	2006 Act and the 2008 Regulations (unless otherwise stated)	1963 Act	1983 Act	1986 Act	GAR 1992	CIR 1992	IUR 1996

APPENDIX 3: NOTE ON THE LEGAL REQUIREMENTS IN THE UK AND REPUBLIC OF IRELAND

A3.4	<i>Small companies regime</i>	There is no equivalent in Irish law to the <i>small companies regime</i> or to the Small Companies and Groups (Accounts and Directors' Report) Regulations 2008. Small companies are defined in Section 8 of the 1986 Act. See note above.					
A3.5	'Companies Act Accounts' required to comply with Part 15 of the Act and [with] the Regulations	Sections 148, 149, 150, 150A, 150C, 151, 152 and 153		Sections 3 to 6 & the Schedule	Regulations 5 to 35 & the Schedule	Regulations 5(1), 5(1A), 7, 8, 8A, 9 and 10 & the Schedule	Regulations 5(1), 5(1A), 6, 7, 8, 10, 12, 12A and 13 & the Schedule
A3.6	Paragraph 36 of Schedule 1 to the Regulations			Paragraphs 22A and 22AA of Part IIIA of the Schedule	Regulation 15 (applying the Schedule to the 1986 Act)	Paragraph 46A of Part I of the Schedule and paragraph 1 of Part II of the Schedule	
A3.6 *footnote	The Small Companies and Groups (Accounts and Directors' Report) Regulations 2008 (SI 2008/409)	There is no equivalent in Irish law to the <i>small companies regime</i> or to the Small Companies and Groups (Accounts and Directors' Report) Regulations 2008. Small companies are defined in Section 8 of the 1986 Act. See note above.					
A3.7	Paragraph 36(4) of Schedule 1 to the Regulations			Paragraph 22AA of Part IIIA of the Schedule	Regulation 15 (applying the Schedule to the 1986 Act)	Paragraphs 46A(4A) and 46A(4B) of Part I and paragraph 1 of Part II of the Schedule	

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Paragraph	2006 Act and the 2008 Regulations (unless otherwise stated)	1963 Act	1983 Act	1986 Act	GAR 1992	CIR 1992	IUR 1996
A3.11	Section 434(2)			Section 19(3A)		Regulation 6(4)	Regulation 9(4)
A3.11	Section 408	Sections 148(8) and (9)		Sections 7(1A) and (1B)			
A3.12	Section 405(3)				Regulation 11	Paragraph 2(3) of Part II of the Schedule	Paragraph 2(3) of Part IV of the Schedule
A3.14	Paragraph 8 of Schedule 1 to the Regulations			Section 4(11)	Regulation 15 (applying Section 4 of the 1986 Act)	Paragraph 5 of Part I and paragraph 1 of Part II of the Schedule	Regulation 6(9) and paragraph 3(1) of Part IV to the Schedule
A3.15	Sections 610-615	Section 62 of the 1963 Act corresponds to Section 610 (application of share premiums) There are no corresponding Irish provisions to Sections 611-615 (group reconstruction and merger relief)					
A3.16	Paragraph 13(a) of Schedule 1 to the Regulations			Section 5(c)(i)	Regulation 28 (applying Section 5 of the 1986 Act)	Paragraph 19(a) of Part I and paragraph 1 of Part II of the Schedule	Regulation 7(c)(1) & paragraph 13 of Part IV of the Schedule
A3.17	Paragraph 39 of Schedule 1 to the Regulations			Paragraph 22CA of Part IIIA of the Schedule	Regulation 15 (applying the Schedule to the 1986 Act)	Paragraph 46BA of Part I and paragraph 1 of Part II of the Schedule	

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Paragraph	2006 Act and the 2008 Regulations (unless otherwise stated)	1963 Act	1983 Act	1986 Act	GAR 1992	CIR 1992	IUR 1996
A3.18	Paragraphs 40 and 40(2) of Schedule 1 to the Regulations			Sections 22D and 22D(2) of Part IIIA of the Schedule	Regulation 15 (applying the Schedule to the 1986 Act)	Paragraphs 46C and 46C(1) of Part I and paragraph 1 of Part II of the Schedule	
A3.18	Paragraph 13(a) of Schedule 1 to the Regulations			Section 5(c)(i)	Regulation 28 (applying Section 5 of the 1986 Act)	Paragraph 19(a) of Part I and paragraph 1 of Part II of the Schedule	Regulation 7(c)(1) & paragraph 13 of Part IV of the Schedule
A3.19	Section 830		Section 45(1) and (2)				
A3.20	Paragraph 10 of Schedule 6 to the Regulations				Regulation 21	Paragraph 11 of Part II of the Schedule	Paragraph 10 of Part IV of the Schedule
A3.23	the profit and loss account and balance sheet formats set out in the Regulations			Part I of the Schedule	Regulation 15 (applying the Schedule to the 1986 Act) and Part 1 of the Schedule	Section B, Chapter I of Part I and paragraph 1 of Part II of the Schedule	Chapter 2 of Part I and paragraph 1 of Part IV of the Schedule
A3.25	‘fixed assets’ the term used in the Regulations (discussion of UITF Abstract 4 on the presentation of debtors due after more than one year within ‘current assets’)	Paragraph 60 of Part VII of the Schedule to the 1986 Act establishes the distinction between fixed assets and current assets, as per the formats in Part I of the Schedule. The formats in the Schedules to the Credit Institutions Regulations 1992 and the Insurance Undertakings Regulations 1996 do not present assets on the basis of the distinction between fixed and current assets.					

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Paragraph	2006 Act and the 2008 Regulations (unless otherwise stated)	1963 Act	1983 Act	1986 Act	GAR 1992	CIR 1992	IUR 1996
A3.27	Profits available for distribution		Part IV				
A3.30	Building Societies Act 1986	Building Societies Act 1989, Part VII, Section 77(1)					
A3.30	Charities Act 1993 (as amended by the Charities Act 2006) and Regulations made thereunder	Charities Act 2009, Section 48 provides that all charities are to prepare an annual statement of accounts, the form and content of which can be prescribed by regulations of the Minister. Section 48 is, at the date of publication of this (draft) FRS, not commenced and no regulations regarding the form and content of charities' annual statements of accounts have been produced. Charity companies are required to prepare financial statements in accordance with the Companies Acts. Sections 148(3) and 150(4) of the 1963 Act requires that companies " <i>not trading for the acquisition of gain by the members</i> " must prepare Companies Act Accounts (i.e. not IFRS Accounts), and this definition may apply to many Irish charity companies.					
A3.30	Friendly and Industrial and Provident Societies Act 1968	Section 30 of part IV of the Industrial and Provident Societies (Amendment) Act, 1978; Regulation 4 of the Friendly Societies Regulation 1988, pursuant to Section 3 of the Friendly Societies (Amendment) Act 1977					
A3.30	The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996	Section 56 of the Pensions Act 1990; Regulation 5 and paragraphs 1 and 2(a)(ii) of Schedule A of the Occupational Pension Schemes (Disclosure of Information) Regulations 2006					