



STATUTORY INSTRUMENTS

S.I. No. 229 of 2009.



EUROPEAN COMMUNITIES (TRANSITIONAL PERIOD MEASURES
IN RESPECT OF THIRD COUNTRY AUDITORS) REGULATIONS 2009

(Prn. A9/0828)

EUROPEAN COMMUNITIES (TRANSITIONAL PERIOD MEASURES IN RESPECT OF THIRD COUNTRY AUDITORS) REGULATIONS 2009

I, MARY COUGHLAN, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect (subject to, and in so far only as is required by, Commission Decision 2008/627/EC of 29 July 2008¹) to Article 45 of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006² and to the said Commission Decision and, in so far as is required by reason of the said giving effect, partial effect to Articles 35(1) and 36(2) of the said Directive, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Communities (transitional period measures in respect of third country auditors) Regulations 2009.

(2) These Regulations shall come into operation on 26 June 2009.

(3) Section 12 of the Company Law Enforcement Act 2001 (No. 28 of 2001) shall apply in relation to these Regulations as it applies in relation to the Companies Acts, subject to the modification that references in that section to Companies Acts shall be construed as including references to these Regulations.

Interpretation.

2. In these Regulations, unless otherwise indicated—

“Annex” means the Annex to the Decision;

“Article” means an Article of the Decision;

“Commission” means the Commission of the European Communities;

“competent authority” shall be construed in accordance with Regulation 3;

“Decision” means Commission Decision 2008/627/EC of 29 July 2008¹ concerning a transitional period for audit activities of certain third country auditors and audit entities;

“Directive” means Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006² on statutory audits of annual accounts and consolidated

¹OJ No. L202, 31.7.2008, p.70.

²OJ No. L157, 9.6.2006, p.87.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 26th June, 2009.*

accounts, amending Council Directives 78/660/EEC³ and 83/349/EEC⁴ and repealing Council Directive 84/253/EEC⁵;

“third country” means a country listed in the Annex;

“third country auditor” has the meaning assigned to it by Regulation 4.

Competent authority.

3. For the purposes of these Regulations and the Decision the Irish Auditing and Accounting Supervisory Authority is the competent authority in the State.

Functions of competent authority.

4. Where an auditor or audit entity from a third country (which auditor or audit entity is hereinafter referred to as a “third country auditor”) provides to the competent authority all of the information listed at subparagraphs (a) to (e) of Article 1(1), correct and accurate in all material respects and so certified by the third country auditor concerned (and updated and recertified by him, her or it as and when necessary), and, subject to compliance with such reasonable requests for clarification or further information as the competent authority may make, pays to the authority such fee (if any) of an amount specified from time to time by the Minister sufficient to cover its administration expenses—

- (a) the provisions of Article 45 of the Directive shall not apply in relation to audit reports, concerning annual accounts or consolidated accounts as referred to in Article 45(1) of the Directive for financial years starting on a date which is in the period starting on 29 June 2008 and ending on 1 July 2010, which are issued by such a third country auditor, and
- (b) the competent authority shall record the said information, and shall ensure that the public is informed about—
 - (i) the name and address of each such third country auditor, and
 - (ii) the fact that the third countries concerned are not yet recognised as equivalent for the purposes of the Directive.

Confidentiality requirements.

5. (1) No person shall disclose, except in accordance with law (including Regulation 4(b)), information that—

- (a) is furnished pursuant to these Regulations to the competent authority, and
- (b) has not otherwise come to the notice of members of the public.

(2) Without limiting paragraph (1), the persons to whom that subsection applies include the following:

³OJ No. L222, 14.8.1978, p.11.

⁴OJ No. L193, 18.7.1983, p.1.

⁵OJ No. L126, 12.5.1984, p.20.

- (a) a member or director or former member or director of the competent authority;
- (b) an employee or former employee of the competent authority;
- (c) a professional or other adviser to the competent authority, including a former adviser.

(3) A person who contravenes paragraph (1) commits an offence and is liable, on summary conviction, to a fine not exceeding €2,000.

Arrangements on quality assurance reviews.

6. The provisions of Regulation 4(a) shall be without prejudice to cooperative arrangements on quality assurance reviews between the competent authority and a competent authority of a third country, provided that such an arrangement meets the criteria listed at paragraphs (a) to (c) of Article 1(4).



GIVEN under my Official Seal,
23 June 2009

MARY COUGHLAN,
Minister for Enterprise, Trade and Employment.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations give effect to Commission Decision 2008/627/EC of 29 July 2008 and provides for a transitional period in respect of the registration requirements set out at Article 45 of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 in respect of auditors and audit entities from the third countries listed at the Annex to the Commission Decision. The third country auditors and audit entities in question are those non-EU auditors and audit entities who audit companies incorporated outside of the European Community which have transferable securities listed to trading on a market regulated within the Community.

The Regulations which come into effect from 26 June 2009, provide for auditors and audit entities from the third countries in question, in lieu of the requirements at Article 45 of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006, to provide stipulated information to the competent authorities in Member States who are required to record this information and ensure that the public is informed about specific aspects of the information. The Irish Auditing and Accounting Supervisory Authority (IAASA) is the competent authority in Ireland for the purposes of the Commission Decision and these Regulations.

The arrangements provided for in these Regulations apply for financial years starting on 29 June 2008 and ending on 1 July 2010.

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