

Exemption from consolidation: holding company that is subsidiary undertaking of undertaking registered outside EEA

300. (1) Subject to subsection (4), a holding company is exempt from the requirement to prepare group financial statements if the holding company (the “lower holding company”) is itself a subsidiary undertaking and its holding undertaking is not established under the laws of an EEA state and one or other of the following cases applies.

(2) Those cases are—

(a) the lower holding company is a wholly owned subsidiary of that other holding undertaking,

(b) that other holding undertaking holds more than 50 per cent of the shares in the lower holding company and notice requesting the preparation of group financial statements has not been served on the lower holding company by shareholders holding in aggregate—

(i) more than half of the remaining shares in the lower holding company, or

(ii) 5 per cent or more of the total shares in the lower holding company.

(3) The notice referred to in subsection (2)(b) shall be served not later than 6 months after the end of the financial year before that to which it relates.

(4) Subsection (1) shall not apply unless the following conditions are satisfied:

(a) the lower holding company and all of its subsidiary undertakings are included in consolidated accounts for a larger group drawn up to the same date, or to an earlier date in the same financial year, by a holding undertaking;

(b) those accounts and, where appropriate, the group's consolidated annual report are drawn up—

(i) in accordance with the provisions of the Seventh Directive (where applicable, as modified by Council Directive 86/635/EEC of 8 December 1986 or Council Directive 91/674/EEC of 23 December 1991), or

(ii) in a manner equivalent to consolidated accounts and consolidated annual reports so drawn up;

(c) the consolidated accounts are audited by one or more persons authorised to audit accounts under the laws under which the holding undertaking which draws them up is established;

(d) the lower holding company discloses in its entity financial statements that it is exempt from the obligation to prepare and deliver group financial statements;

(e) the lower holding company states in its entity financial statements the name of the holding

undertaking which draws up the consolidated accounts referred to in paragraph (a) and—

- (i) if the holding undertaking is a body corporate, the country in which it is incorporated, or
- (ii) if the holding undertaking is unincorporated, the address of its principal place of business;

and

(f) the lower holding company delivers to the Registrar, within the period allowed for delivering its entity financial statements, copies of—

- (i) the other holding undertaking's consolidated accounts, and
- (ii) where appropriate, the consolidated annual report,

together with the auditors' report on them.

(5) Shares held by directors of the lower holding company for the purpose of complying with any share qualification requirement shall be disregarded in determining for the purposes of subsection (2)(a) whether the company is a wholly owned subsidiary of another.

(6) For the purposes of paragraph (b) of subsection (2), shares held by a wholly owned subsidiary of the first-mentioned undertaking in that paragraph, or held on behalf of that undertaking or its wholly owned subsidiary, shall be attributed to that undertaking.

(7) In this section—

“consolidated annual report” means—

(a) the report prepared by management of the group in accordance with the Seventh Directive, or

(b) the report by management of the group required to be prepared under the laws or administrative measures that result in the equivalence referred to in subsection (4)(b)(ii),

and, in either case, is equivalent to the expression “directors' report” as used in this Part;

“Seventh Directive” means the Seventh Council Directive 83/349/EEC of 13 June 1983.