



# Companies Act 1989

## 1989 CHAPTER 40

### PART IV

#### REGISTRATION OF COMPANY CHARGES

##### *Introduction*

#### **92 Introduction**

The provisions of this Part amend the provisions of the Companies Act 1985 relating to the registration of company charges—

- (a) by inserting in Part XII of that Act (in place of sections 395 to 408 and 410 to 423) new provisions with respect to companies registered in Great Britain, and
- (b) by inserting as Chapter III of Part XXIII of that Act (in place of sections 409 and 424) new provisions with respect to oversea companies.

##### *Registration in the companies charges register*

#### **93 Charges requiring registration**

The following sections are inserted in Part XII of the Companies Act 1985—

##### *“Registration in the company charges register*

#### **395 Introductory provisions**

- (1) The purpose of this Part is to secure the registration of charges on a company’s property.

- (2) In this Part—

“charge” means any form of security interest (fixed or floating) over property, other than an interest arising by operation of law; and

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“property”, in the context of what is the subject of a charge, includes future property.

- (3) It is immaterial for the purposes of this Part where the property subject to a charge is situated.
- (4) References in this Part to “the registrar” are—
- (a) in relation to a company registered in England and Wales, to the registrar of companies for England and Wales, and
  - (b) in relation to a company registered in Scotland, to the registrar of companies for Scotland;
- and references to registration, in relation to a charge, are to registration in the register kept by him under this Part.

### **396 Charges requiring registration**

- (1) The charges requiring registration under this Part are—
- (a) a charge on land or any interest in land, other than—
    - (i) in England and Wales, a charge for rent or any other periodical sum issuing out of the land,
    - (ii) in Scotland, a charge for any rent, ground annual or other periodical sum payable in respect of the land;
  - (b) a charge on goods or any interest in goods, other than a charge under which the chargee is entitled to possession either of the goods or of a document of title to them;
  - (c) a charge on intangible movable property (in Scotland, incorporeal moveable property) of any of the following descriptions—
    - (i) goodwill,
    - (ii) intellectual property,
    - (iii) book debts (whether book debts of the company or assigned to the company),
    - (iv) uncalled share capital of the company or calls made but not paid;
  - (d) a charge for securing an issue of debentures; or
  - (e) a floating charge on the whole or part of the company’s property.
- (2) The descriptions of charge mentioned in subsection (1) shall be construed as follows—
- (a) a charge on a debenture forming part of an issue or series shall not be treated as falling within paragraph (a) or (b) by reason of the fact that the debenture is secured by a charge on land or goods (or on an interest in land or goods);
  - (b) in paragraph (b) “goods” means any tangible movable property (in Scotland, corporeal moveable property) other than money;
  - (c) a charge is not excluded from paragraph (b) because the chargee is entitled to take possession in case of default or on the occurrence of some other event;
  - (d) in paragraph (c)(ii) “intellectual property” means—
    - (i) any patent, trade mark, service mark, registered design, copyright or design right, or

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- (ii) any licence under or in respect of any such right;
  - (e) a debenture which is part of an issue or series shall not be treated as a book debt for the purposes of paragraph (c)(iii);
  - (f) the deposit by way of security of a negotiable instrument given to secure the payment of book debts shall not be treated for the purposes of paragraph (c)(iii) as a charge on book debts;
  - (g) a shipowner's lien on subfreights shall not be treated as a charge on book debts for the purposes of paragraph (c)(iii) or as a floating charge for the purposes of paragraph (e).
- (3) Whether a charge is one requiring registration under this Part shall be determined—
- (a) in the case of a charge created by a company, as at the date the charge is created, and
  - (b) in the case of a charge over property acquired by a company, as at the date of the acquisition.
- (4) The Secretary of State may by regulations amend subsections (1) and (2) so as to add any description of charge to, or remove any description of charge from, the charges requiring registration under this Part.
- (5) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In the following provisions of this Part references to a charge are, unless the context otherwise requires, to a charge requiring registration under this Part.

Where a charge not otherwise requiring registration relates to property by virtue of which it requires to be registered and to other property, the references are to the charge so far as it relates to property of the former description.”.

## **94 The companies charges register**

The following section is inserted in Part XII of the Companies Act 1985—

### **“397 The companies charges register**

- (1) The registrar shall keep for each company a register, in such form as he thinks fit, of charges on property of the company.
- (2) The register shall consist of a file containing with respect to each charge the particulars and other information delivered to the registrar under the provisions of this Part.
- (3) Any person may require the registrar to provide a certificate stating the date on which any specified particulars of, or other information relating to, a charge were delivered to him.
- (4) The certificate shall be signed by the registrar or authenticated by his official seal.
- (5) The certificate shall be conclusive evidence that the specified particulars or other information were delivered to the registrar no later than the date stated in

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the certificate; and it shall be presumed unless the contrary is proved that they were not delivered earlier than that date.”.

## **95 Delivery of particulars for registration**

The following sections are inserted in Part XII of the Companies Act 1985—

### **“398 Company’s duty to deliver particulars of charge for registration**

- (1) It is the duty of a company which creates a charge, or acquires property subject to a charge—
  - (a) to deliver the prescribed particulars of the charge, in the prescribed form, to the registrar for registration, and
  - (b) to do so within 21 days after the date of the charge’s creation or, as the case may be, the date of the acquisition;
 but particulars of a charge may be delivered for registration by any person interested in the charge.
- (2) Where the particulars are delivered for registration by a person other than the company concerned, that person is entitled to recover from the company the amount of any fees paid by him to the registrar in connection with the registration.
- (3) If a company fails to comply with subsection (1), then, unless particulars of the charge have been delivered for registration by another person, the company and every officer of it who is in default is liable to a fine.
- (4) Where prescribed particulars in the prescribed form are delivered to the registrar for registration, he shall file the particulars in the register and shall note, in such form as he thinks fit, the date on which they were delivered to him.
- (5) The registrar shall send to the company and any person appearing from the particulars to be the chargee, and if the particulars were delivered by another person interested in the charge to that person, a copy of the particulars filed by him and of the note made by him as to the date on which they were delivered.

### **399 Effect of failure to deliver particulars for registration**

- (1) Where a charge is created by a company and no prescribed particulars in the prescribed form are delivered for registration within the period of 21 days after the date of the charge’s creation, the charge is void against—
  - (a) an administrator or liquidator of the company, and
  - (b) any person who for value acquires an interest in or right over property subject to the charge,
 where the relevant event occurs after the creation of the charge, whether before or after the end of the 21 day period.
 

This is subject to section 400 (late delivery of particulars).
- (2) In this Part “the relevant event” means—
  - (a) in relation to the voidness of a charge as against an administrator or liquidator, the beginning of the insolvency proceedings, and

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- (b) in relation to the voidness of a charge as against a person acquiring an interest in or right over property subject to a charge, the acquisition of that interest or right;  
and references to “a relevant event” shall be construed accordingly.
- (3) Where a relevant event occurs on the same day as the charge is created, it shall be presumed to have occurred after the charge is created unless the contrary is proved.

#### **400 Late delivery of particulars**

- (1) Where prescribed particulars of a charge created by a company, in the prescribed form, are delivered for registration more than 21 days after the date of the charge’s creation, section 399(1) does not apply in relation to relevant events occurring after the particulars are delivered.
- (2) However, where in such a case—
  - (a) the company is at the date of delivery of the particulars unable to pay its debts, or subsequently becomes unable to pay its debts in consequence of the transaction under which the charge is created, and
  - (b) insolvency proceedings begin before the end of the relevant period beginning with the date of delivery of the particulars,the charge is void as against the administrator or liquidator.
- (3) For this purpose—
  - (a) the company is “unable to pay its debts” in the circumstances specified in section 123 of the Insolvency Act 1986; and
  - (b) the “relevant period” is—
    - (i) two years in the case of a floating charge created in favour of a person connected with the company (within the meaning of section 249 of that Act),
    - (ii) one year in the case of a floating charge created in favour of a person not so connected, and
    - (iii) six months in any other case.
- (4) Where a relevant event occurs on the same day as the particulars are delivered, it shall be presumed to have occurred before the particulars are delivered unless the contrary is proved.”.

## **96 Delivery of further particulars**

The following section is inserted in Part XII of the Companies Act 1985—

#### **“401 Delivery of further particulars**

- (1) Further particulars of a charge, supplementing or varying the registered particulars, may be delivered to the registrar for registration at any time.
- (2) Further particulars must be in the prescribed form signed by or on behalf of both the company and the chargee.

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- (3) Where further particulars are delivered to the registrar for registration and appear to him to be duly signed, he shall file the particulars in the register and shall note, in such form as he thinks fit, the date on which they were delivered to him.
- (4) The registrar shall send to the company and any person appearing from the particulars to be the chargee, and if the particulars were delivered by another person interested in the charge to that other person, a copy of the further particulars filed by him and of the note made by him as to the date on which they were delivered.”.

## 97 Effect of omissions and errors in registered particulars

The following section is inserted in Part XII of the Companies Act 1985—

### “402 Effect of omissions and errors in registered particulars

- (1) Where the registered particulars of a charge created by a company are not complete and accurate, the charge is void, as mentioned below, to the extent that rights are not disclosed by the registered particulars which would be disclosed if they were complete and accurate.
- (2) The charge is void to that extent, unless the court on the application of the chargee orders otherwise, as against—
  - (a) an administrator or liquidator of the company, and
  - (b) any person who for value acquires an interest in or right over property subject to the charge,
 where the relevant event occurs at a time when the particulars are incomplete or inaccurate in a relevant respect.
- (3) Where a relevant event occurs on the same day as particulars or further particulars are delivered, it shall be presumed to have occurred before those particulars are delivered unless the contrary is proved.
- (4) The court may order that the charge is effective as against an administrator or liquidator of the company if it is satisfied—
  - (a) that the omission or error is not likely to have misled materially to his prejudice any unsecured creditor of the company, or
  - (b) that no person became an unsecured creditor of the company at a time when the registered particulars of the charge were incomplete or inaccurate in a relevant respect.
- (5) The court may order that the charge is effective as against a person acquiring an interest in or right over property subject to the charge if it is satisfied that he did not rely, in connection with the acquisition, on registered particulars which were incomplete or inaccurate in a relevant respect.
- (6) For the purposes of this section an omission or inaccuracy with respect to the name of the chargee shall not be regarded as a failure to disclose the rights of the chargee.”.

## **98 Memorandum of charge ceasing to affect company's property**

The following section is inserted in Part XII of the Companies Act 1985—

### **“403 Memorandum of charge ceasing to affect company's property**

- (1) Where a charge of which particulars have been delivered ceases to affect the company's property, a memorandum to that effect may be delivered to the registrar for registration.
- (2) The memorandum must be in the prescribed form signed by or on behalf of both the company and the chargee.
- (3) Where a memorandum is delivered to the registrar for registration and appears to him to be duly signed, he shall file it in the register, and shall note, in such form as he thinks fit, the date on which it was delivered to him.
- (4) The registrar shall send to the company and any person appearing from the memorandum to be the chargee, and if the memorandum was delivered by another person interested in the charge to that person, a copy of the memorandum filed by him and of the note made by him as to the date on which it was delivered.
- (5) If a duly signed memorandum is delivered in a case where the charge in fact continues to affect the company's property, the charge is void as against—
  - (a) an administrator or liquidator of the company, and
  - (b) any person who for value acquires an interest in or right over property subject to the charge,where the relevant event occurs after the delivery of the memorandum.
- (6) Where a relevant event occurs on the same day as the memorandum is delivered, it shall be presumed to have occurred before the memorandum is delivered unless the contrary is proved.”.

## **99 Further provisions with respect to voidness of charges**

The following sections are inserted in Part XII of the Companies Act 1985—

### *“Further provisions with respect to voidness of charges*

#### **404 Exclusion of voidness as against unregistered charges**

- (1) A charge is not void by virtue of this Part as against a subsequent charge unless some or all of the relevant particulars of that charge are duly delivered for registration—
  - (a) within 21 days after the date of its creation, or
  - (b) before complete and accurate relevant particulars of the earlier charge are duly delivered for registration.
- (2) Where relevant particulars of the subsequent charge so delivered are incomplete or inaccurate, the earlier charge is void as against that charge only to the extent that rights are disclosed by registered particulars of the subsequent charge duly

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delivered for registration before the corresponding relevant particulars of the earlier charge.

- (3) The relevant particulars of a charge for the purposes of this section are those prescribed particulars relating to rights inconsistent with those conferred by or in relation to the other charge.

#### **405 Restrictions on voidness by virtue of this Part**

- (1) A charge is not void by virtue of this Part as against a person acquiring an interest in or right over property where the acquisition is expressly subject to the charge.
- (2) Nor is a charge void by virtue of this Part in relation to any property by reason of a relevant event occurring after the company which created the charge has disposed of the whole of its interest in that property.

#### **406 Effect of exercise of power of sale**

- (1) A chargee exercising a power of sale may dispose of property to a purchaser freed from any interest or right arising from the charge having become void to any extent by virtue of this Part—
- (a) against an administrator or liquidator of the company, or
  - (b) against a person acquiring a security interest over property subject to the charge;
- and a purchaser is not concerned to see or inquire whether the charge has become so void.
- (2) The proceeds of the sale shall be held by the chargee in trust to be applied—
- First, in discharge of any sum effectively secured by prior incumbrances to which the sale is not made subject;
  - Second, in payment of all costs, charges and expenses properly incurred by him in connection with the sale, or any previous attempted sale, of the property;
  - Third, in discharge of any sum effectively secured by the charge and incumbrances ranking *pari passu* with the charge;
  - Fourth, in discharge of any sum effectively secured by incumbrances ranking after the charge;
- and any residue is payable to the company or to a person authorised to give a receipt for the proceeds of the sale of the property.
- (3) For the purposes of subsection (2)—
- (a) prior incumbrances include any incumbrance to the extent that the charge is void as against it by virtue of this Part; and
  - (b) no sum is effectively secured by a charge to the extent that it is void as against an administrator or liquidator of the company.
- (4) In this section—
- (a) references to things done by a chargee include things done by a receiver appointed by him, whether or not the receiver acts as his agent;
  - (b) “power of sale” includes any power to dispose of, or grant an interest out of, property for the purpose of enforcing a charge (but in relation



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- to Scotland does not include the power to grant a lease), and references to “sale” shall be construed accordingly; and
- (c) “purchaser” means a person who in good faith and for valuable consideration acquires an interest in property.
- (5) The provisions of this section as to the order of application of the proceeds of sale have effect subject to any other statutory provision (in Scotland, any other statutory provision or rule of law) applicable in any case.
- (6) Where a chargee exercising a power of sale purports to dispose of property freed from any such interest or right as is mentioned in subsection (1) to a person other than a purchaser, the above provisions apply, with any necessary modifications, in relation to a disposition to a purchaser by that person or any successor in title of his.
- (7) In Scotland, subsections (2) and (7) of section 27 of the Conveyancing and Feudal Reform (Scotland) Act 1970 apply to a chargee unable to obtain a discharge for any payment which he is required to make under subsection (2) above as they apply to a creditor in the circumstances mentioned in those subsections.

#### **407 Effect of voidness on obligation secured**

- (1) Where a charge becomes void to any extent by virtue of this Part, the whole of the sum secured by the charge is payable forthwith on demand; and this applies notwithstanding that the sum secured by the charge is also the subject of other security.
- (2) Where the charge is to secure the repayment of money, the references in subsection (1) to the sum secured include any interest payable.”.

### **100 Additional information to be registered**

The following sections are inserted in Part XII of the Companies Act 1985—

*“Additional information to be registered*

#### **408 Particulars of taking up of issue of debentures**

- (1) Where particulars of a charge for securing an issue of debentures have been delivered for registration, it is the duty of the company—
- (a) to deliver to the registrar for registration particulars in the prescribed form of the date on which any debentures of the issue are taken up, and of the amount taken up, and
- (b) to do so before the end of the period of 21 days after the date on which they are taken up.
- (2) Where particulars in the prescribed form are delivered to the registrar for registration under this section, he shall file them in the register.
- (3) If a company fails to comply with subsection (1), the company and every officer of it who is in default is liable to a fine.

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#### **409 Notice of appointment of receiver or manager, &c**

- (1) If a person obtains an order for the appointment of a receiver or manager of a company's property, or appoints such a receiver or manager under powers contained in an instrument, he shall within seven days of the order or of the appointment under those powers, give notice of that fact in the prescribed form to the registrar for registration.
- (2) Where a person appointed receiver or manager of a company's property under powers contained in an instrument ceases to act as such receiver or manager, he shall, on so ceasing, give notice of that fact in the prescribed form to the registrar for registration.
- (3) Where a notice under this section in the prescribed form is delivered to the registrar for registration, he shall file it in the register.
- (4) If a person makes default in complying with the requirements of subsection (1) or (2), he is liable to a fine.
- (5) This section does not apply in relation to companies registered in Scotland (for which corresponding provision is made by sections 53, 54 and 62 of the Insolvency Act 1986).

#### **410 Notice of crystallisation of floating charge, &c**

- (1) The Secretary of State may by regulations require notice in the prescribed form to be given to the registrar of—
  - (a) the occurrence of such events as may be prescribed affecting the nature of the security under a floating charge of which particulars have been delivered for registration, and
  - (b) the taking of such action in exercise of powers conferred by a fixed or floating charge of which particulars have been delivered for registration, or conferred in relation to such a charge by an order of the court, as may be prescribed.
- (2) The regulations may make provision as to—
  - (a) the persons by whom notice is required to be, or may be, given, and the period within which notice is required to be given;
  - (b) the filing in the register of the particulars contained in the notice and the noting of the date on which the notice was given; and
  - (c) the consequences of failure to give notice.
- (3) As regards the consequences of failure to give notice of an event causing a floating charge to crystallise, the regulations may include provision to the effect that the crystallisation—
  - (a) shall be treated as ineffective until the prescribed particulars are delivered, and
  - (b) if the prescribed particulars are delivered after the expiry of the prescribed period, shall continue to be ineffective against such persons as may be prescribed,

subject to the exercise of such powers as may be conferred by the regulations on the court.

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- (4) The regulations may provide that if there is a failure to comply with such of the requirements of the regulations as may be prescribed, such persons as may be prescribed are liable to a fine.
- (5) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Regulations under this section shall not apply in relation to a floating charge created under the law of Scotland by a company registered in Scotland.”.

*Copies of instruments and register to be kept by company*

**101 Copies of instruments and register to be kept by company**

The following sections are inserted in Part XII of the Companies Act 1985—

*“Copies of instruments and register to be kept by company*

**411 Duty to keep copies of instruments and register**

- (1) Every company shall keep at its registered office a copy of every instrument creating or evidencing a charge over the company’s property.

In the case of a series of uniform debentures, a copy of one debenture of the series is sufficient.

- (2) Every company shall also keep at its registered office a register of all such charges, containing entries for each charge giving a short description of the property charged, the amount of the charge and (except in the case of securities to bearer) the names of the persons entitled to it.
- (3) This section applies to any charge, whether or not particulars are required to be delivered to the registrar for registration.
- (4) If a company fails to comply with any requirement of this section, the company and every officer of it who is in default is liable to a fine.

**412 Inspection of copies and register**

- (1) The copies and the register referred to in section 411 shall be open to the inspection of any creditor or member of the company without fee; and to the inspection of any other person on payment of such fee as may be prescribed.
- (2) Any person may request the company to provide him with a copy of—
  - (a) any instrument creating or evidencing a charge over the company’s property, or
  - (b) any entry in the register of charges kept by the company, on payment of such fee as may be prescribed.

This subsection applies to any charge, whether or not particulars are required to be delivered to the registrar for registration.

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- (3) The company shall send the copy to him not later than ten days after the day on which the request is received or, if later, on which payment is received.
- (4) If inspection of the copies or register is refused, or a copy requested is not sent within the time specified above—
  - (a) the company and every officer of it who is in default is liable to a fine, and
  - (b) the court may by order compel an immediate inspection of the copies or register or, as the case may be, direct that the copy be sent immediately.”.

*Supplementary provisions*

**102 Power to make further provision by regulations**

The following section is inserted in Part XII of the Companies Act 1985—

*“Supplementary provisions*

**413 Power to make further provision by regulations**

- (1) The Secretary of State may by regulations make further provision as to the application of the provisions of this Part in relation to charges of any description specified in the regulations.

Nothing in the following provisions shall be construed as restricting the generality of that power.
- (2) The regulations may require that where the charge is contained in or evidenced or varied by a written instrument there shall be delivered to the registrar for registration, instead of particulars or further particulars of the charge, the instrument itself or a certified copy of it together with such particulars as may be prescribed.
- (3) The regulations may provide that a memorandum of a charge ceasing to affect property of the company shall not be accepted by the registrar unless supported by such evidence as may be prescribed, and that a memorandum not so supported shall be treated as not having been delivered.
- (4) The regulations may also provide that where the instrument creating the charge is delivered to the registrar in support of such a memorandum, the registrar may mark the instrument as cancelled before returning it and shall send copies of the instrument cancelled to such persons as may be prescribed.
- (5) The regulations may exclude or modify, in such circumstances and to such extent as may be prescribed, the operation of the provisions of this Part relating to the voidness of a charge.
- (6) The regulations may require, in connection with the delivery of particulars, further particulars or a memorandum of the charge’s ceasing to affect property of the company, the delivery of such supplementary information as may be prescribed, and may—

- (a) apply in relation to such supplementary information any provisions of this Part relating to particulars, further particulars or such a memorandum, and
  - (b) provide that the particulars, further particulars or memorandum shall be treated as not having been delivered until the required supplementary information is delivered.
- (7) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

### **103 Other supplementary provisions**

The following sections are inserted in Part XII of the Companies Act 1985—

#### **“414 Date of creation of charge**

- (1) References in this Part to the date of creation of a charge by a company shall be construed as follows.
- (2) A charge created under the law of England and Wales shall be taken to be created—
  - (a) in the case of a charge created by an instrument in writing, when the instrument is executed by the company or, if its execution by the company is conditional, upon the conditions being fulfilled, and
  - (b) in any other case, when an enforceable agreement is entered into by the company conferring a security interest intended to take effect forthwith or upon the company acquiring an interest in property subject to the charge.
- (3) A charge created under the law of Scotland shall be taken to be created—
  - (a) in the case of a floating charge, when the instrument creating the floating charge is executed by the company, and
  - (b) in any other case, when the right of the person entitled to the benefit of the charge is constituted as a real right.
- (4) Where a charge is created in the United Kingdom but comprises property outside the United Kingdom, any further proceedings necessary to make the charge valid or effectual under the law of the country where the property is situated shall be disregarded in ascertaining the date on which the charge is to be taken to be created.

#### **415 Prescribed particulars and related expressions**

- (1) References in this Part to the prescribed particulars of a charge are to such particulars of, or relating to, the charge as may be prescribed.
- (2) The prescribed particulars may, without prejudice to the generality of subsection (1), include—
  - (a) whether the company has undertaken not to create other charges ranking in priority to or *pari passu* with the charge, and

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- (b) whether the charge is a market charge within the meaning of Part VII of the Companies Act 1989 or a charge to which the provisions of that Part apply as they apply to a market charge.
- (3) References in this Part to the registered particulars of a charge at any time are to such particulars and further particulars of the charge as have at that time been duly delivered for registration.
- (4) References in this Part to the registered particulars of a charge being complete and accurate at any time are to their including all the prescribed particulars which would be required to be delivered if the charge were then newly created.

#### **416 Notice of matters disclosed on register**

- (1) A person taking a charge over a company's property shall be taken to have notice of any matter requiring registration and disclosed on the register at the time the charge is created.
- (2) Otherwise, a person shall not be taken to have notice of any matter by reason of its being disclosed on the register or by reason of his having failed to search the register in the course of making such inquiries as ought reasonably to be made.
- (3) The above provisions have effect subject to any other statutory provision as to whether a person is to be taken to have notice of any matter disclosed on the register.

#### **417 Power of court to dispense with signature**

- (1) Where it is proposed to deliver further particulars of a charge, or to deliver a memorandum of a charge ceasing to affect the company's property, and—
  - (a) the chargee refuses to sign or authorise a person to sign on his behalf, or cannot be found, or
  - (b) the company refuses to authorise a person to sign on its behalf,
 the court may on the application of the company or the chargee, or of any other person having a sufficient interest in the matter, authorise the delivery of the particulars or memorandum without that signature.
- (2) The order may be made on such terms as appear to the court to be appropriate.
- (3) Where particulars or a memorandum are delivered to the registrar for registration in reliance on an order under this section, they must be accompanied by an office copy of the order.

In such a case the references in sections 401 and 403 to the particulars or memorandum being duly signed are to their being otherwise duly signed.

- (4) The registrar shall file the office copy of the court order along with the particulars or memorandum.”.

## **104 Interpretation, &c**

The following sections are inserted in Part XII of the Companies Act 1985—

### **“418 Regulations**

Regulations under any provision of this Part, or prescribing anything for the purposes of any such provision—

- (a) may make different provision for different cases, and
- (b) may contain such supplementary, incidental and transitional provisions as appear to the Secretary of State to be appropriate.

### **419 Minor definitions**

(1) In this Part—

“chargee” means the person for the time being entitled to exercise the security rights conferred by the charge;

“issue of debentures” means a group of debentures, or an amount of debenture stock, secured by the same charge; and

“series of debentures” means a group of debentures each containing or giving by reference to another instrument a charge to the benefit of which the holders of debentures of the series are entitled *pari passu*.

(2) References in this Part to the creation of a charge include the variation of a charge which is not registrable so as to include property by virtue of which it becomes registrable.

The provisions of section 414 (construction of references to date of creation of charge) apply in such a case with any necessary modifications.

(3) References in this Part to the date of acquisition of property by a company are—

- (a) in England and Wales, to the date on which the acquisition is completed, and
- (b) in Scotland, to the date on which the transaction is settled.

(4) In the application of this Part to a floating charge created under the law of Scotland, references to crystallisation shall be construed as references to the attachment of the charge.

(5) References in this Part to the beginning of insolvency proceedings are to—

- (a) the presentation of a petition on which an administration order or winding-up order is made, or
- (b) the passing of a resolution for voluntary winding up.

### **420 Index of defined expressions**

The following Table shows the provisions of this Part defining or otherwise explaining expressions used in this Part (other than expressions used only in the same section)—

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charge	sections 395(2) and 396(6)
charge requiring registration	section 396
chargee	section 419(1)

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*Status: This is the original version (as it was originally enacted).*

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complete and accurate (in relation to registered particulars)	section 415(4)
creation of charge	section 419(2)
crystallisation (in relation to Scottish floating charge)	section 419(4)
date of acquisition (of property by a company)	section 419(3)
date of creation of charge	section 414
further particulars	section 401
insolvency proceedings, beginning of	section 419(5)
issue of debentures	section 419(1)
memorandum of charge ceasing to affect company's property	section 403
prescribed particulars	section 415(1) and (2)
property	section 395(2)
registered particulars	section 415(3)
registrar and registration in relation to a charge	section 395(4)
relevant event	section 399(2)
series of debentures	section 419(1)."

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### **105 Charges on property of overseas company**

The provisions set out in Schedule 15 are inserted in Part XXIII of the Companies Act 1985 (overseas companies), as a Chapter III (registration of charges).

### **106 Application of provisions to unregistered companies**

In Schedule 22 to the Companies Act 1985 (provisions applying to unregistered companies), at the appropriate place insert—

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“Part XII	Registration of company charges; copies of instruments and register to be kept by company.	Subject to section 718(3).”.
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### **107 Consequential amendments**

The enactments specified in Schedule 16 have effect with the amendments specified there, which are consequential on the amendments made by the preceding provisions of this Part.