
DRAFT STATUTORY INSTRUMENTS

2008 No.

The Companies (Disclosure of Address) Regulations 2008

PART 3

**APPLICATION TO MAKE AN ADDRESS UNAVAILABLE
FOR PUBLIC INSPECTION UNDER SECTION 1088**

Application under section 1088 to make an address unavailable for public inspection by an individual

9.—(1) A section 1088 application may be made to the registrar by an individual whose usual residential address was placed on the register either—

- (a) under section 10 (documents to be sent to registrar)(**1**), 288 (register of directors and secretaries)(**2**), 363 (duty to deliver annual returns)(**3**), 691 (documents to be delivered to registrar)(**4**) or 692 (registration of altered particulars)(**5**) of or paragraph 2 of Schedule 21A(**6**) to the 1985 Act;
- (b) under Article 21, 296, 371, 641 or 642 of the 1986 Order(**7**); or
- (c) as a service address under section 12 (statement of proposed officers), 167 (duty to notify registrar of changes of director's particulars) or 855 (contents of annual return) of the Act,

in respect of that usual residential address where it was placed on the register on or after 1st January 2003.

(2) The grounds on which an application under paragraph (1) may be made are that the individual making the application—

- (a) considers that there is a serious risk that he, or a person who lives with him, will be subjected to violence or intimidation as a result of the activities of at least one of the companies of which—
 - (i) he is, or proposes to become, a director; or
 - (ii) he is not a director but of which he has been at any time a director, secretary or permanent representative;
- (b) he is or has been employed by a relevant organisation;

(1) Section 10 was amended by the Companies (Particulars of Usual Residential Address) (Confidentiality Orders) Regulations 2002 (S.I. 2002/912).

(2) Section 288 was amended by the Companies (Particulars of Usual Residential Address) (Confidentiality Orders) Regulations 2002 (S.I. 2002/912).

(3) Section 363 was substituted by section 139(1) of the Companies Act 1989 (c.40).

(4) Section 691 was amended by the Companies (Particulars of Usual Residential Address) (Confidentiality Orders) Regulations 2002 (S.I. 2002/912). Section 691(2), (3) and (4) was substituted by section 145 of the Companies Act 1989.

(5) Section 692 was amended by the Companies (Particulars of Usual Residential Address) (Confidentiality Orders) Regulations 2002 (S.I. 2002/912).

(6) Schedule 21A was inserted by the Overseas Companies and Credit and Financial Institutions (Branch Disclosure) Regulations 1992 (S.I. 1992/3179) and amended by S.I. 2002/912.

(7) Article 371 was substituted by Article 74 of, and Article 641 was amended by Article 78 of and paragraph 6 of Schedule 5 to, the Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10)).

- (c) is a section 243 beneficiary.
- (3) The application shall—
 - (a) contain—
 - (i) a statement of the grounds on which the application is made;
 - (ii) the name and any former name of the applicant;
 - (iii) the usual residential address of the applicant that is to be made unavailable for public inspection;
 - (iv) an address for correspondence in respect of the application;
 - (v) the name and registered number of each company of which the applicant is or has been at any time since 1st January 2003 a director, secretary or permanent representative;
 - (vi) the service address which is to replace that usual residential address on the register;
 - (vii) subject to paragraph (4)—
 - (aa) the date of birth of the applicant;
 - (bb) the name of each company of which the applicant proposes to become a director; and
 - (cc) where the registrar has allotted a unique identifier to the applicant, that unique identifier; and
 - (b) be accompanied by evidence which—
 - (i) where the grounds of the application are those described in paragraph (2)(a), supports the applicant’s assertion that his application falls within the grounds stated in his application;
 - (ii) where the grounds of the application are those described in paragraph (2)(b), establishes that the applicant is or has been employed by a relevant organisation;
 - (iii) where the grounds of the application are those described in paragraph (2)(c), establishes that he is a section 243 beneficiary.
- (4) The application need not contain the information described at paragraph (3)(a)(vii) where the application is delivered to the registrar on the same day as the applicant delivers a section 243 application.
- (5) The registrar may refer to a relevant body any question relating to an assessment of—
 - (a) the nature and extent of any risk of violence or intimidation considered by the applicant to arise in relation to himself, or a person who lives with him, as a result of the activities of any company of which he is or proposes to become a director or has been at any time a director, secretary or permanent representative; or
 - (b) whether the applicant is or has been employed by a relevant organisation.
- (6) The registrar shall determine the application and send the applicant to the address for correspondence stated in his application, notice of his determination on the section 1088 application within five working days of that determination being made.

Application under section 1088 to make an address unavailable for public inspection by a company

- 10.—(1)** A section 1088 application may be made to the registrar by a company in respect of the addresses of—
- (a) all of its members and former members whose addresses were contained in—

- (i) an annual return; or
 - (ii) a return of allotment of shares,
delivered to the registrar on or after 1st January 2003; or
- (b) the subscribers to its memorandum of association where that memorandum was delivered to the registrar on or after 1st January 2003.
- (2) The grounds on which an application under paragraph (1) may be made are that the company making the application considers that, as a result of its activities, the availability to members of the public of the addresses described in paragraph (1) creates a serious risk that its members or former members or subscribers, or persons who live at those addresses, will be subjected to violence or intimidation.
- (3) The application shall—
- (a) contain—
 - (i) the name of the applicant and its registered number; and
 - (ii) a statement of the grounds on which the application is made; and
 - (b) be accompanied by evidence—
 - (i) which supports the applicant’s assertion that its application falls within the grounds stated in its application; or
 - (ii) where the court has made an order under section 117(3) (register of members: response to request for inspection or copy) directing the applicant not to comply with a request under section 116 (rights to inspect and require copies), a copy of that order.
- (4) The registrar may refer to a relevant body any question relating to the assessment of the nature and extent of any risk of violence or intimidation considered by the applicant to arise in relation to any of its members or former members or subscribers, or persons who live at the addresses described in paragraph (1), as a result of its activities by virtue of the availability to members of the public of particulars of the addresses of such members or former members or subscribers.
- (5) The registrar shall determine the application and send the applicant to its registered office notice of his determination on the section 1088 application within five working days of that determination being made.

Application under section 1088 to make an address unavailable for public inspection by a person who registers a charge

- 11.—**(1) A section 1088 application may be made to the registrar by a person who—
- (a) (i) on or after 1st January 2003, registered a charge under Part 12 of the 1985 Act (registration of charges) or Part 13 of the 1986 Order; or
 - (ii) has registered a charge under Part 25 of the Act (company charges); and
- (b) is not the company which created the charge or acquired the property subject to a charge, in respect of his address delivered to the registrar for the purposes of that registration.
- (2) The grounds on which an application under paragraph (1) may be made are that the person making the application considers that there is a serious risk that he, or if applicable his employees, or persons who live with him or his employees, will be subjected to violence or intimidation as a result of the activities of the company which is, or was, subject to the charge.
- (3) The application shall—
- (a) contain—
 - (i) a statement of the grounds on which the application is made;

- (ii) the name of the applicant, and where the applicant is a company, its registered number;
 - (iii) the address of the applicant that is to be made unavailable for public inspection;
 - (iv) the name and registered number of the company which is or was subject to the charge;
 - (v) an address for correspondence with the registrar in respect of the application;
 - (vi) where the applicant is the chargee, the service address which is to replace the address of the applicant on the register; and
- (b) be accompanied by evidence which supports the applicant's assertion that there is a serious risk that he or, if applicable, his employees, or persons who live with him or his employees, will be subjected to violence or intimidation as a result of the activities of the company which is or was subject to the charge.

(4) The registrar may refer to a relevant body any question relating to the assessment of the nature and extent of any risk of violence or intimidation considered by the applicant to arise in relation to himself or, if applicable, his employees, or persons who live with him or his employees, as a result of the activities of the company which is or was subject to the charge.

(5) The registrar shall determine the application and send the applicant to the address stated in the application in accordance with paragraph (3)(a)(v) notice of his determination on the section 1088 application within five working days of that determination being made.

Matters relevant to section 1088 applications

12.—(1) For the purpose of regulations 9, 10 and 11 the registrar may direct that additional information or evidence should be delivered to him, what such information or evidence should be and how it should be verified.

(2) For the purpose of determining any section 1088 application the registrar may accept any answer to a question referred in accordance with regulation 9(5), 10(4) or 11(4) as providing sufficient evidence of—

- (a) the nature and extent of any risk relevant to—
 - (i) where the grounds of the application are those described in regulation 9(2)(a), the applicant;
 - (ii) where the grounds of the application are those described in regulation 10(2), the subscribers or members or former members of an applicant; or
 - (iii) where the grounds of the application are those described in regulation 11(2), where the applicant is an individual, the applicant, or any employees of an applicant, or to persons who live with any of the above individuals or, in the case of members, former members or subscribers, to persons who live at their addresses, or
- (b) whether an applicant is or has been employed by a relevant organisation.

Effect of a successful section 1088 application

13.—(1) Where a section 1088 application has been determined in favour of the applicant the registrar shall—

- (a) in the case of an application made under regulation 9(1) or 11(1) make the specified address unavailable for public inspection;
- (b) in the case of an application under regulation 10(1) make all of the members', former members' or subscribers' addresses unavailable for public inspection;

- (c) in the case of a person to whom paragraph 36 of Schedule 2 to the Companies Act 2006 (Commencement No. 8, Transitional Provisions and Savings) Order 2008 applies, make unavailable for public inspection the address referred to in sub-paragraph (1)(a) of that paragraph.
- (2) In this regulation “specified address” means the address specified in the application as being the one to be made unavailable for public inspection.