

SCHEDULE 3

Regulation 25

APPLICATION TO PREVENT DISCLOSURE OF ADDRESS TO CREDIT REFERENCE AGENCY

Introductory

1. In this Schedule “application for higher protection” has the meaning given by regulation 25(1).

Application by the individual concerned

2.—(1) An application for higher protection may be made to the registrar by an individual who is, or proposes to become, a director or permanent representative of a company to which Part 4 applies.

(2) The grounds on which an application may be made under this paragraph are that the applicant considers that there is a serious risk that the applicant, or a person who lives with the applicant, will be subjected to violence or intimidation as a result of the activities of at least one of—

- (a) the overseas companies of which the applicant is, or proposes to become, a director or permanent representative;
- (b) the overseas companies of which the applicant was a director or permanent representative or secretary;
- (c) the companies of which the applicant is or has been a director; or
- (d) the limited liability partnerships of which the applicant is or has been a member.

(3) The application must contain—

- (a) a statement of the grounds on which the application is made;
- (b) the name and any former name of the applicant;
- (c) the date of birth of the applicant;
- (d) the usual residential address of the applicant;
- (e) where the registrar has allocated a unique identifier to the applicant, that unique identifier;
- (f) the name and registered number of each overseas company of which the applicant is, or proposes to become, a director or permanent representative; and
- (g) where the grounds of the application are those described in sub-paragraph (2)(b), (c) or (d), the name and registered number of the overseas company, company or limited liability partnership.

(4) The application must be accompanied by evidence which supports the applicant’s statement of the grounds of the application.

(5) The registrar may refer to—

- (a) a police force, or
- (b) any other person whom the registrar considers may be able to assist in answering the question,

any question relating to an assessment of the nature and extent of any risk of violence or intimidation.

(6) The registrar shall—

- (a) determine the application, and
- (b) send notice of the determination to the applicant (to the applicant’s usual residential address as stated in the application) within five working days of the determination’s being made.

Application by company

3.—(1) An application for higher protection may be made to the registrar by a company to which Part 4 applies on behalf of any of its directors or permanent representatives.

(2) The grounds on which an application under sub-paragraph (1) may be made are that the company considers that there is a serious risk that the director or permanent representative on behalf of whom the application is made, or a person who lives with that director or permanent representative, will be subjected to violence or intimidation as a result of the company's activities.

(3) The application must contain—

- (a) a statement of the grounds on which the application is made;
- (b) the name and registered number of the applicant;
- (c) the name and any former name of each director or permanent representative on behalf of whom the application is made;
- (d) the date of birth of each such director or permanent representative;
- (e) the usual residential address of each such director or permanent representative;
- (f) where the registrar has allocated a unique identifier to any such director or permanent representative, that unique identifier;
- (g) the name and registered number of each UK-registered company or overseas company to which Part 4 applies of which each such director or permanent representative is a director or permanent representative.

(4) The application must be accompanied by evidence which supports the applicant's statement of the grounds of the application.

(5) The registrar may refer to—

- (a) a police force, or
- (b) any other person whom the registrar considers may be able to assist in answering the question,

any question relating to an assessment of the nature and extent of any risk of violence or intimidation.

(6) The registrar shall—

- (a) determine the application, and
- (b) send notice of the determination within five working days of its being made—
 - (i) to the applicant (to its registered office or, if it is not registered, to the address of its principal place of business in its country of incorporation), and
 - (ii) to each director or permanent representative on behalf of whom the application was made (to the usual residential address of the director or permanent representative as stated in the application).

Supplementary provisions relating to applications

4.—(1) For the purpose of paragraphs 2(4) and 3(4) 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) The registrar shall not make available for public inspection—

- (a) any application for higher protection; or
- (b) any documents provided in support of that application; or
- (c) any representations received in connection with the revocation of a decision under paragraph 7.

(3) For the purpose of determining an application for higher protection the registrar may accept any answer to a question referred in accordance with paragraph 2(5) or 3(5) as providing sufficient evidence of the nature and extent of any risk of violence or intimidation.

(4) In paragraphs 2 and 3 “former name” means a name that has been notified to the registrar under regulation 6(3)(a)(ii) or 7(1)(f)(ii) and the definition in regulation 2 shall not apply.

Appeals

5.—(1) An applicant who has received notice under paragraph 2 or 3 that the application has been unsuccessful may appeal to the High Court or, in Scotland, the Court of Session on the grounds that the decision—

- (a) is unlawful;
- (b) is irrational or unreasonable;
- (c) has been made on the basis of a procedural impropriety or otherwise contravenes the rules of natural justice.

(2) No appeal under this paragraph may be brought unless the leave of the court has been obtained.

(3) An applicant must bring an appeal within 35 days of the date of the notice or, with the court’s permission, after the end of such period, but only if the court is satisfied—

- (a) where permission is sought before the end of that period, that there is good reason for the applicant being unable to bring the appeal in time; or
- (b) where permission is sought after that time, that there was a good reason for the applicant’s failure to bring the appeal in time and for any delay in applying for permission.

(4) The court determining an appeal may—

- (a) dismiss the appeal, or
- (b) quash the decision,

and where the court quashes a decision it may refer the matter to the registrar with a direction to reconsider it and make a determination in accordance with the findings of the court.

Duration of favourable decision on application

6. A decision of the registrar in favour of the applicant on an application for higher protection continues to have effect until—

- (a) the registrar is notified by the individual in respect of whom the application was made (or their personal representative) of the wish that the decision should cease to apply, or
- (b) the registrar revokes the decision in accordance with paragraph 7.

Revocation of favourable decision on application

7.—(1) The registrar may revoke a decision in favour of the applicant on an application for higher protection if the individual in respect of whom the application was made, or any other person, is found guilty of an offence under section 1112 of the Companies Act 2006 (general false statement offence) committed in purporting to comply with any provision of this Schedule.

(2) The registrar must send to the individual notice of any proposal to revoke a decision under this paragraph.

(3) The notice must—

- (a) inform the individual that they may, within the period of 28 days beginning with the date of the notice, deliver representations to the registrar, and

- (b) state that if representations are not received by the registrar within that period, the decision will be revoked at the expiry of that period.
- (4) If within the period specified in sub-paragraph (3) the individual delivers representations as to why the decision should not be revoked, the registrar must—
 - (a) have regard to the representations in determining whether to revoke the decision, and
 - (b) send notice of the determination to the individual within five working days of its being made.
- (5) Any communication by the registrar under this paragraph in respect of a proposal or determination must be sent to the individual's usual residential address.