
DRAFT STATUTORY INSTRUMENTS

2016 No.

**The Register of People with
Significant Control Regulations 2016**

PART 1

GENERAL INTRODUCTORY PROVISIONS

Citation and commencement

1.—(1) These Regulations may be cited as the Register of People with Significant Control Regulations 2016.

(2) These Regulations come into force on 6th April 2016 other than paragraph 6 of Schedule 5, which comes into force on 30th June 2016.

Interpretation

2. In these Regulations—

“the Act” means the Companies Act 2006;

“the 2009 Regulations” means the Companies (Disclosure of Address) Regulations 2009(1);

“the 2016 Regulations” means the Limited Liability Partnerships (Register of People with Significant Control) Regulations 2016(2);

“former name” means a name by which an individual was formerly known for business purposes;

“limited liability partnership” means a limited liability partnership incorporated under the Limited Liability Partnerships Act 2000(3);

“name” means a person’s forename and surname, except that in the case of—

(a) a peer; or

(b) an individual usually known by a title,

the title may be stated instead of that person’s forename and surname or in addition to either or both of them;

“personal representative” means the executor or administrator for the time being of a deceased person;

“relevant body” means—

(a) a police force within the meaning of section 101(1) of the Police Act 1996(4);

(1) S.I. 2009/214; relevant amending instruments are S.I. 2009/1941, 2009/2400, 2009/2437, 2010/2156, 2011/1043, 2011/2085, 2012/700, 2013/472, 2013/1682, 2014/469, 2014/549, 2014/631 and 2015/842.

(2) S.I. [].

(3) 2000 c.12.

(4) 1996 c.16; section 101(1) was amended by section 96(2) of the Police Reform and Social Responsibility Act 2011 (c.13).

(b) the Police Service of Northern Ireland; and

(c) the Police Service of Scotland;

“section 243 decision” means a determination under the 2009 Regulations which is a section 243 decision within the meaning of those Regulations;

“secured information” means the required particulars⁽⁵⁾ (other than the particular required by section 790K(1)(i) of the Act) of a registrable person in relation to a company⁽⁶⁾;

“specified public authorities” has the meaning given in regulation 22(1);

“voting rights” means rights to vote at general meetings of the company or legal entity in question, including rights that arise only in certain circumstances, and in relation to a legal entity that does not have general meetings at which matters are decided by the exercise of voting rights, a reference to voting rights is to be read as a reference to rights in relation to the entity that are equivalent to those of a person entitled to exercise voting rights in a company;

“voting shares” means shares carrying voting rights; and

“withdrawal notice” has the meaning given in regulation 21.

PART 2

APPLICATION AND FEES

Companies to which Part 21A of the Act does not apply

3. A company is specified for the purpose of section 790B(1)(b) of the Act if it has voting shares admitted to trading—

(a) on a regulated market⁽⁷⁾ in an EEA State⁽⁸⁾ other than the United Kingdom; or

(b) on a market listed in Schedule 1.

Legal entities which are subject to their own disclosure requirements

4. A legal entity⁽⁹⁾ (other than one to which section 790C(7)(c) of the Act applies) is specified for the purpose of section 790C(7)(d) of the Act if it has voting shares admitted to trading—

(a) on a regulated market in an EEA State other than the United Kingdom; or

(b) on a market listed in Schedule 1.

Modification for persons covered by section 790C(12) of the Act

5.—(1) The following modification is prescribed for the purpose of section 790C(12) of the Act.

(2) Sections 790M(2) to (6) and (10) of the Act are not to be read and do not have effect as if a person within section 790C(12) of the Act were an individual.

Fee for a copy of a company’s PSC register

6.—(1) The fee prescribed for the purpose of section 790O(2) of the Act is £12.

⁽⁵⁾ See section 790K of the Act for the meaning of “required particulars”.

⁽⁶⁾ See section 1 of the Act for the meaning of “company”.

⁽⁷⁾ See section 1173 of the Act for the meaning of “regulated market”.

⁽⁸⁾ See section 1170 of the Act for the meaning of “EEA State”; section 1170 was amended by S.I. 2007/732.

⁽⁹⁾ See section 790C(5) of the Act for the meaning of “legal entity”.

(2) That fee applies to any single request for a copy of a company's PSC register⁽¹⁰⁾, or any part of it, regardless of how many parts are required to be copied.

PART 3

NATURE OF CONTROL AND FOREIGN LIMITED PARTNERS

Particulars required as to nature of control

7.—(1) The particulars required by sections 790K(1)(h), 790K(2)(e) and 790K(3)(f) of the Act (particulars as to nature of control over the company) are—

- (a) where the person meets the first specified condition⁽¹¹⁾, the statement listed in Part 1 of Schedule 2 which is applicable to that person;
- (b) where the person meets the second specified condition, the statement listed in Part 2 of Schedule 2 which is applicable to that person;
- (c) where the person meets the third specified condition, the statement listed in Part 3 of Schedule 2;
- (d) where the person meets the fourth specified condition and does not meet the first, second or third specified condition, the statement listed in Part 4 of Schedule 2;
- (e) where the person meets the fifth specified condition in connection with a trust, every statement listed in Part 5 of Schedule 2 which is applicable to that person;
- (f) where the person meets the fifth specified condition in connection with a firm⁽¹²⁾, every statement listed in Part 6 of Schedule 2 which is applicable to that person.

(2) Part 7 of Schedule 2 sets out a rule for the interpretation of Schedule 2.

Characteristics of a foreign limited partner

8.—(1) The characteristics prescribed for the purposes of paragraph 25(5)(b) of Schedule 1A to the Act are that the individual—

- (a) participates in a foreign limited partnership as a limited liability participant; or
- (b) directly or indirectly, holds shares or a right in or in relation to a legal entity which participates in a foreign limited partnership as a limited liability participant.

(2) In this regulation—

- (a) a “foreign limited partnership” is an arrangement which—
 - (i) is established under the law of a country or territory outside the United Kingdom;
 - (ii) consists of at least one person who has unlimited liability for the debts and obligations of the arrangement; and
 - (iii) consists of at least one person who has no, or limited, liability for the debts and obligations of the arrangement for so long as that person does not take part in the management of the arrangement's business; and
- (b) a “limited liability participant” is a person who—

⁽¹⁰⁾ See section 790C(10) of the Act for the meaning of “PSC register”.

⁽¹¹⁾ See section 790C(3) of the Act for the meaning of “specified conditions” and paragraphs 2 to 6 in Part 1 of Schedule 1A to the Act for the meanings of the first, second, third, fourth and fifth conditions.

⁽¹²⁾ See section 1173(1) of the Act for the meaning of “firm”.

- (i) has no, or limited, liability for the debts and obligations of the foreign limited partnership for so long as that person does not take part in the management of the foreign limited partnership's business; and
- (ii) does not take part in the management of the foreign limited partnership's business.

PART 4

ADDITIONAL MATTERS

Additional matters to be noted in a PSC register

9.—(1) The additional matters required to be noted in a company's PSC register under section 790M(7) of the Act are the matters required to be noted by regulations 10 to 17.

(2) Where any additional matter noted in a company's PSC register in accordance with regulation 10, 11, 12 or 13 ceases to be true, the company must note in its PSC register—

- (a) that the additional matter has ceased to be true; and
- (b) the date on which the additional matter ceased to be true.

Additional matters where there is no registrable person or registrable relevant legal entity

10.—(1) This regulation applies where a company knows or has reasonable cause to believe that there is no registrable person(13) or registrable relevant legal entity(14) in relation to the company.

(2) The company must note in its PSC register that it knows or has reasonable cause to believe that there is no registrable person or registrable relevant legal entity in relation to the company.

Additional matters where there is an unidentified registrable person

11.—(1) This regulation applies where a company—

- (a) knows or has reasonable cause to believe that there is a registrable person in relation to the company; and
- (b) has not been able to identify the registrable person.

(2) The company must—

- (a) note in its PSC register that it knows or has reasonable cause to believe that there is a registrable person in relation to the company but it has not identified the registrable person; and
- (b) make a separate note in its PSC register in respect of each registrable person which the company has been unable to identify.

Additional matters where an identified registrable person's particulars are not confirmed

12.—(1) This regulation applies where—

- (a) a company has identified a registrable person in relation to the company; and
- (b) all the required particulars of that person have not been confirmed(15) for the purposes of section 790M of the Act.

(13) See section 790C(4) of the Act for the meaning of "registrable person".

(14) See section 790C(8) of the Act for the meaning of "registrable relevant legal entity".

(15) See section 790M(9) of the Act for the meaning of "confirmed".

- (2) The company must—
- (a) note in its PSC register that it has identified a registrable person in relation to the company but all the required particulars of that person have not been confirmed; and
 - (b) make a separate note in its PSC register in respect of each registrable person which the company has been unable to identify.

Additional matters where a company’s investigations are ongoing

- 13.—(1) This regulation applies where a company—
- (a) is not required to place a note in its PSC register by regulation 10, 11 or 12;
 - (b) has not entered, and is not required to enter, the required particulars of any registrable person or registrable relevant legal entity in its PSC register; and
 - (c) has not yet completed taking reasonable steps to find out if there is anyone who is a registrable person or a registrable relevant legal entity in relation to the company under section 790D of the Act.

(2) The company must note in its PSC register that it has not yet completed taking reasonable steps to find out if there is anyone who is a registrable person or a registrable relevant legal entity in relation to the company.

Additional matters where there is a failure to comply with a notice given under section 790D of the Act

- 14.—(1) This regulation applies where—
- (a) a company has given a notice under section 790D of the Act; and
 - (b) the addressee of the notice has failed to comply with the notice within the time specified in it.
- (2) The company must—
- (a) note in its PSC register that it has given a notice under section 790D of the Act which has not been complied with; and
 - (b) make a separate note in its PSC register in respect of each notice under section 790D which has not been complied with.

Additional matters where there is a failure to comply with a notice given under section 790E of the Act

- 15.—(1) This regulation applies where—
- (a) a company has given a notice under section 790E of the Act; and
 - (b) the addressee of the notice has failed to comply with the notice within the time specified in it.

(2) The company must note in the entry in its PSC register for the addressee that the addressee has failed to comply with a notice given by the company under section 790E of the Act.

Additional matters where a notice given under section 790D or section 790E of the Act is complied with after the time specified in the notice

- 16.—(1) This regulation applies where—
- (a) a note has been placed in a company’s register under regulation 14 or 15; and

- (b) the addressee of the notice to which the note relates has complied with the notice after the time specified in the notice.
- (2) The company must note in its PSC register—
 - (a) that the notice has been complied with after the time specified in the notice; and
 - (b) the date on which the notice was complied with.

Additional matters where a company has issued a restrictions notice

17.—(1) This regulation applies where a company has issued a restrictions notice⁽¹⁶⁾ under paragraph 1 of Schedule 1B to the Act.

- (2) The company must—
 - (a) note in its PSC register that it has issued a restrictions notice under paragraph 1 of Schedule 1B to the Act; and
 - (b) make a separate note in its PSC register in respect of each registrable person which the company has been unable to identify.
- (3) Where the company withdraws the restrictions notice under paragraph 11 of Schedule 1B to the Act, the company must note in its PSC register—
 - (a) that it has withdrawn the restrictions notice by giving a withdrawal notice; and
 - (b) the date specified in the withdrawal notice as the date on which the withdrawal notice was given.
- (4) Where a court⁽¹⁷⁾ makes an order under paragraph 8 of Schedule 1B to the Act directing that a relevant interest in the company⁽¹⁸⁾ cease to be subject to restrictions, the company must note in its PSC register—
 - (a) that the court has made an order under paragraph 8 of Schedule 1B to the Act directing that a relevant interest in the company cease to be subject to restrictions; and
 - (b) the date on which that order takes effect.

PART 5

WARNING AND RESTRICTIONS NOTICES

Content of a warning notice

- 18.** A warning notice⁽¹⁹⁾ given under paragraph 1 of Schedule 1B to the Act must—
- (a) specify the date on which the warning notice is given;
 - (b) be accompanied by a copy of the notice given under section 790D or 790E of the Act to which the warning notice relates;
 - (c) identify the addressee’s relevant interest in the company by reference to the shares or right in question;
 - (d) state that the company will consider reasons provided to it as to why the addressee failed to comply with the notice given under section 790D or 790E of the Act;

⁽¹⁶⁾ See paragraph 1(2) of Schedule 1B to the Act for the meaning of “restrictions notice”.

⁽¹⁷⁾ See section 1156(1) of the Act for the meaning of “court”; section 1156(1) was amended by paragraph 43(a) of Schedule 9 to the Crime and Courts Act 2013 (c.22).

⁽¹⁸⁾ See paragraph 2 of Schedule 1B to the Act for the meaning of “a relevant interest in a company”.

⁽¹⁹⁾ See paragraph 1(2) of Schedule 1B to the Act for the meaning of “warning notice”.

- (e) explain the effect of a restrictions notice; and
- (f) state that, by virtue of a restrictions notice, certain acts or failures to act may constitute an offence.

Content of a restrictions notice

- 19.** A restrictions notice issued under paragraph 1 of Schedule 1B to the Act must—
- (a) specify the date on which the restrictions notice is issued;
 - (b) be accompanied by a copy of the warning notice which preceded the restrictions notice;
 - (c) identify the addressee’s relevant interest in the company by reference to the shares or right in question;
 - (d) explain the effect of the restrictions notice;
 - (e) state that, by virtue of the restrictions notice, certain acts or failures to act may constitute an offence; and
 - (f) state that an aggrieved person may apply to the court for an order directing that the relevant interest cease to be subject to restrictions.

Failure to comply with a section 790D or 790E notice: valid reason

20. A company must take into account any incapacity of the addressee of a notice given under section 790D or 790E of the Act in deciding what counts as a “valid reason” sufficient to justify the addressee’s failure to comply with the notice.

Withdrawal of a restrictions notice

- 21.** Where a company is required to withdraw a restrictions notice under paragraph 11 of Schedule 1B to the Act by notice (a “withdrawal notice”), the withdrawal notice must—
- (a) be given before the end of the period of 14 days beginning with the day on which the company became required to withdraw the restrictions notice under that paragraph;
 - (b) specify the date on which the withdrawal notice is given;
 - (c) identify the addressee’s relevant interest in the company by reference to the shares or right in question; and
 - (d) state that the relevant interest is no longer subject to restrictions.

PART 6

THE PROTECTION OF USUAL RESIDENTIAL ADDRESS INFORMATION

Permitted disclosure of usual residential address information by the registrar to specified public authorities

22.—(1) The public authorities⁽²⁰⁾ listed in Schedule 3 (“specified public authorities”) are specified for the purposes of section 243 of the Act (as applied by section 790ZF of the Act).

(2) The conditions specified for the disclosure of information within section 790ZF(2) of the Act by the registrar⁽²¹⁾ to specified public authorities in accordance with section 243 of the Act (as applied by section 790ZF of the Act) are listed in Part 1 of Schedule 4.

⁽²⁰⁾ See section 243(7) of the Act for the meaning of “public authority”.

⁽²¹⁾ See section 1060(3) of the Act for the meaning of “the registrar”.

Permitted disclosure of usual residential address information by the registrar to credit reference agencies

23.—(1) The conditions specified for the disclosure of information within section 790ZF(2) of the Act by the registrar to a credit reference agency⁽²²⁾ in accordance with section 243 of the Act (as applied by section 790ZF of the Act) are listed in Part 2 of Schedule 4.

(2) The registrar may rely on a statement delivered to the registrar by a credit reference agency under Part 2 of Schedule 4 as sufficient evidence of the matters stated in it.

Circumstances where the registrar must refrain from disclosure of usual residential address information

24.—(1) The registrar must not disclose information within section 790ZF(2) of the Act to a credit reference agency if in relation to that information an application has been made under regulation 25, 26 or 27—

- (a) which has not yet been determined by the registrar and has not been withdrawn under regulation 29;
- (b) which has been determined by the registrar in favour of the applicant (but see paragraph (2));
- (c) which was unsuccessful and the period for applying for permission to appeal in regulation 30(3) has not passed;
- (d) which was unsuccessful and an appeal to the court in respect of that application under regulation 30 has not been determined by the court; or
- (e) which was unsuccessful and the applicant has successfully appealed the determination.

(2) Paragraph (1)(b) does not apply where the determination has ceased to have effect under regulation 31.

(3) For the purposes of this regulation, an application is made when it has been registered by the registrar.

Application by an individual requiring the registrar to refrain from disclosing that individual's usual residential address information to a credit reference agency

25.—(1) An individual who is, or proposes to become, a registrable person in relation to a company may make an application to the registrar requiring the registrar to refrain from disclosing to a credit reference agency information within section 790ZF(2) of the Act relating to that individual.

(2) The grounds on which an application may be made are that—

- (a) the applicant reasonably believes 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—
 - (i) the companies in relation to which the applicant is, or proposes to become, a registrable person;
 - (ii) the companies in relation to which the applicant used to be a registrable person;
 - (iii) the limited liability partnerships in relation to which the applicant is, or proposes to become, a registrable person under the 2016 Regulations;
 - (iv) the limited liability partnerships in relation to which the applicant used to be a registrable person under the 2016 Regulations;

(22) See section 243(7) of the Act for the meaning of “credit reference agency”.

- (v) the limited liability partnerships in relation to which the applicant is or proposes to become a member;
 - (vi) the limited liability partnerships in relation to which the applicant used to be a member;
 - (vii) the companies in relation to which the applicant is, or proposes to become, a director⁽²³⁾;
 - (viii) the companies in relation to which the applicant used to be a director; or
 - (ix) the overseas companies⁽²⁴⁾ of which the applicant is or used to be a director, secretary or permanent representative; or
- (b) a section 243 decision has been made in respect of the applicant which has not ceased to have effect under regulation 15 of the 2009 Regulations.
- (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) the e-mail address of the applicant, if any;
 - (f) the name and registered number of each company in relation to which the applicant is, or proposes to become, a registrable person;
 - (g) where the grounds of the application are those described in paragraphs (2)(a)(ii) to (ix), the names and registered numbers of the companies, limited liability partnerships and overseas companies whose activities are relevant to the application; and
 - (h) where the grounds of the application are those described in paragraph (2)(b), the name and registered number of the company in relation to which the section 243 decision was made, unless the section 243 decision relates to a proposed company which was never incorporated.
- (4) Where the grounds of the application are those described in paragraph (2)(a), the application must be accompanied by evidence which supports the applicant’s statement of the grounds on which the application is made.
- (5) The registrar must determine the application and, within 7 days beginning with the date that the determination is made, send to the applicant notice of the determination.
- (6) Where the application is unsuccessful, the notice under paragraph (5) must inform the applicant of the applicant’s right to apply for permission to appeal against the determination within 28 days beginning with the date of the notice.

Application by a company requiring the registrar to refrain from disclosing an individual’s usual residential address information to a credit reference agency

- 26.—(1) A company (“the applicant”) may make an application to the registrar requiring the registrar to refrain from disclosing to a credit reference agency information within section 790ZF(2) of the Act relating to an individual (“R”) who is, or proposes to become, a registrable person in relation to the company.
- (2) A company may only make an application under paragraph (1) where R has given consent for the company to make the application on R’s behalf.

(23) See section 250 of the Act for the meaning of “director”.

(24) See section 1044 of the Act for the meaning of “overseas company”.

- (3) The grounds on which an application may be made are that—
- (a) the applicant reasonably believes that there is a serious risk that R, or a person who lives with R, will be subjected to violence or intimidation as a result of the applicant’s activities; or
 - (b) a section 243 decision has been made in respect of R which has not ceased to have effect under regulation 15 of the 2009 Regulations.
- (4) Where the grounds of the application are those described in paragraph (3)(b), the application must only relate to one individual who is, or proposes to become, a registrable person in relation to the company.
- (5) The application must contain—
- (a) a statement of the grounds on which the application is made;
 - (b) confirmation that R consents to the making of the application;
 - (c) the name and registered number of the applicant;
 - (d) the address of the registered office of the applicant;
 - (e) the e-mail address of the applicant, if any;
 - (f) the name and any former name of R;
 - (g) the date of birth of R;
 - (h) the usual residential address of R;
 - (i) the e-mail address of R, if any;
 - (j) where R is a registrable person in relation to another company, the name and registered number of that company; and
 - (k) where the grounds of the application are those described in paragraph (3)(b), the name and registered number of the company in relation to which the section 243 decision was made, unless the section 243 decision relates to a proposed company which was never incorporated.
- (6) Where the grounds of the application are those described in paragraph (3)(a), the application must be accompanied by evidence which supports the applicant’s statement of the grounds on which the application is made.
- (7) The registrar must determine the application and, within 7 days beginning with the date that the determination is made, send to the applicant and to R notice of the determination.
- (8) Where the application is unsuccessful, the notice under paragraph (7) must inform the applicant of the applicant’s right to apply for permission to appeal against the determination within 28 days beginning with the date of the notice.

Application by a subscriber to a memorandum of association requiring the registrar to refrain from disclosing an individual’s usual residential address information to a credit reference agency

27.—(1) A subscriber to a memorandum of association (“the applicant”) may make an application to the registrar requiring the registrar to refrain from disclosing to a credit reference agency information within section 790ZF(2) relating to an individual (“R”) who proposes to become, on or after the formation of the company to which the memorandum relates, a registrable person in relation to the company.

(2) A subscriber to a memorandum of association may only make an application under paragraph (1) where R has given consent for the subscriber to make the application on R’s behalf.

(3) The grounds on which an application may be made are that—

- (a) the applicant reasonably believes that there is a serious risk that R, or a person who lives with R, will be subjected to violence or intimidation as a result of the proposed activities of the company to which the memorandum relates; or
 - (b) a section 243 decision has been made in respect of R which has not ceased to have effect under regulation 15 of the 2009 Regulations.
- (4) Where the grounds of the application are those described in paragraph (3)(b), the application must only relate to one individual who proposes to become a registrable person in relation to the proposed company.
- (5) The application must contain—
- (a) a statement of the grounds on which the application is made;
 - (b) confirmation that R consents to the making of the application;
 - (c) the name and any former name of the applicant;
 - (d) the usual residential address of the applicant;
 - (e) the e-mail address of the applicant, if any;
 - (f) the name of the proposed company to which the memorandum relates;
 - (g) the name and any former name of R;
 - (h) the date of birth of R;
 - (i) the usual residential address of R;
 - (j) the e-mail address of R, if any;
 - (k) where R is a registrable person in relation to another company, the name and registered number of that company; and
 - (l) where the grounds of the application are those described in paragraph (3)(b), the name and registered number of the company in relation to which the section 243 decision was made, unless the section 243 decision relates to a proposed company which was never incorporated.
- (6) Where the grounds of the application are those described in paragraph (3)(a), the application must be accompanied by evidence which supports the applicant's statement of the grounds on which the application is made.
- (7) The registrar must determine the application and, within 7 days beginning with the date that the determination is made, send to the applicant and to R notice of the determination.
- (8) Where the application is unsuccessful, the notice under paragraph (7) must inform the applicant of the applicant's right to apply for permission to appeal against the determination within 28 days beginning with the date of the notice.

Matters relating to an application made under regulation 25, 26 or 27

- 28.**—(1) For the purpose of determining an application made under regulation 25, 26 or 27 the registrar may—
- (a) direct that additional information or evidence should be delivered to the registrar;
 - (b) refer any question relating to an assessment of the nature or extent of any risk of violence or intimidation to a relevant body or to any other person the registrar considers may be able to assist in making the assessment; and
 - (c) accept any answer to a question referred under paragraph (1)(b) as providing sufficient evidence of the nature or extent of any risk.
- (2) The registrar must not make available for public inspection—

- (a) any application made under regulation 25, 26 or 27;
- (b) any documents provided in support of that application;
- (c) any notice provided under regulation 29 (notice of withdrawal of application);
- (d) any notice provided under regulation 30(4) (notice of an appeal);
- (e) any notice provided under regulation 31 (notice that determination no longer wanted); or
- (f) any representations delivered under regulation 32 (representations as to why determination should not be revoked).

(3) A person who makes an application under regulation 25, 26 or 27 must inform the registrar in writing without delay upon becoming aware of any change to any information or evidence provided to the registrar in connection with the application.

Withdrawal of an application made under regulation 25, 26 or 27

29. If a person in relation to whom an application has been made under regulation 25, 26 or 27 that has not yet been determined notifies the registrar in writing that the person no longer wishes the registrar to determine the application, the registrar is not required to determine the application under regulation 25(5), 26(7) or 27(7) (as the case may be).

Appealing against a determination made under regulation 25, 26 or 27

30.—(1) Subject to paragraph (2), an applicant who has received notice under regulation 25(5), 26(7) or 27(7) that the applicant's application has been unsuccessful may appeal to the High Court or, in Scotland, the Court of Session on the grounds that the determination—

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

(2) No appeal may be brought unless the permission of the court has been obtained.

(3) No application for such permission may be made after 28 days beginning with the date of the notice under regulation 25(5), 26(7) or 27(7) unless the court is satisfied that there was good reason for the failure of the applicant to seek permission before the end of that period.

(4) An applicant who seeks permission to appeal must serve written notice of the application on the registrar within 7 days beginning with the date on which the application for permission was issued.

(5) The court determining an appeal may—

- (a) dismiss the appeal; or
- (b) quash the determination.

(6) Where the court quashes a determination 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 a determination made under regulation 25, 26 or 27

31. A determination made under regulation 25(5), 26(7) or 27(7) that an application is successful continues to have effect until—

- (a) either—
 - (i) the person to whom the determination relates; or
 - (ii) that person's personal representative,

notifies the registrar in writing that he or she wishes the determination to cease to have effect; or

- (b) the registrar revokes the determination under regulation 32.

Revocation of a determination made under regulation 25, 26 or 27

32.—(1) The registrar may revoke a determination made under regulation 25(5), 26(7) or 27(7) that an application is successful if—

- (a) the applicant in relation to the determination or (if different) any person to whom the application relates has been found guilty of an offence under section 1112 of the Act (general false statement offence) in respect of purported compliance with any provision of this Part;
- (b) the registrar has sent a notice in accordance with paragraph (2) to the applicant in relation to the determination and (if different) the person to whom the determination relates; and
- (c) the period of 28 days beginning with the date of that notice has expired.

(2) The notice mentioned in paragraph (1)(b) must inform the addressee—

- (a) of the registrar’s intention to revoke the determination;
- (b) that the addressee may, within 28 days beginning with the date of the notice, deliver representations in writing to the registrar as to why the registrar should not revoke the determination; and
- (c) that if the registrar receives such representations within that period, the registrar will have regard to the representations in deciding whether to revoke the determination.

(3) If within the period specified in paragraph (2)(b) the addressee of the notice delivers representations in writing to the registrar as to why the registrar should not revoke the determination, the registrar must have regard to the representations in deciding whether to revoke the determination.

(4) The registrar must send notice of the registrar’s decision as to whether to revoke a determination to the applicant in relation to the determination and (if different) the person to whom the determination relates within 7 days beginning with the date of the decision.

PART 7

THE PROTECTION OF SECURED INFORMATION

Circumstances where the registrar must omit secured information from material on the register available for public inspection

33.—(1) The registrar must omit secured information from the material on the register that is available for public inspection if—

- (a) in relation to that information an application has been made under regulation 36, 37 or 38—
- (i) which has not yet been determined by the registrar and has not been withdrawn under regulation 40;
- (ii) which has been determined by the registrar in favour of the applicant (but see paragraph (4));
- (iii) which was unsuccessful and a period of 42 days beginning with the date of the notice sent under regulation 36(5), 37(5) or 38(5) has not passed;
- (iv) which was unsuccessful and an appeal to the court in respect of that application under regulation 41 has not been determined by the court; or

- (v) which was unsuccessful and the applicant has successfully appealed the determination; and
 - (b) that information is contained in a document delivered to the registrar in which such information is required to be stated and, in the case of a document having more than one part, the information is contained in a part of the document in which such information is required to be stated.
- (2) The registrar is not obliged to check documents, other than those described in paragraph (1)(b), to ensure the absence of secured information in relation to which an application under regulation 36, 37 or 38 has been made.
- (3) If the secured information in relation to which an application under regulation 36, 37 or 38 is made is available for public inspection on the register at the time that the application is made, the registrar must comply with paragraph (1) as soon as reasonably practicable.
- (4) Paragraph (1)(a)(ii) does not apply where the determination has ceased to have effect under regulation 43.
- (5) For the purposes of this regulation an application under regulation 36, 37 or 38 is made when it has been registered by the registrar.

Circumstances where the registrar must not use or disclose secured information

- 34.**—(1) Subject to paragraph (3), the registrar must not use or disclose secured information if in relation to that information an application has been made under regulation 36, 37 or 38—
- (a) which has not yet been determined by the registrar and has not been withdrawn under regulation 40;
 - (b) which has been determined by the registrar in favour of the applicant (but see paragraph (2));
 - (c) which was unsuccessful and a period of 42 days beginning with the date of the notice sent under regulation 36(5), 37(5) or 38(5) has not passed;
 - (d) which was unsuccessful and an appeal to the court in respect of that application under regulation 41 has not been determined by the court; or
 - (e) which was unsuccessful and the applicant has successfully appealed the determination.
- (2) Paragraph (1)(b) does not apply where the determination has ceased to have effect under regulation 43.
- (3) Where the prohibition in paragraph (1) applies in relation to secured information, the registrar may—
- (a) use or disclose that secured information for communicating with the person to whom the application under regulation 36, 37 or 38 relates and, if different, the applicant; and
 - (b) disclose the secured information to a specified public authority where the conditions specified in Part 1 of Schedule 4 are satisfied.
- (4) For the purposes of this regulation an application under regulation 36, 37 or 38 is made when it has been registered by the registrar.

Fee payable for the disclosure by the registrar of secured information

- 35.**—(1) On the disclosure of secured information under regulation 34(3)(b) the specified public authority to which the information is disclosed must pay a fee to the registrar for the disclosure of that information.
- (2) The fee payable under paragraph (1) is—

- (a) where the request for secured information by the specified public authority is made by reference to an individual, £5.00 per individual specified in the request; or
- (b) where the request for secured information by the specified public authority is made by reference to a company, £5.00 per company specified in the request.

Application by an individual requiring the registrar to refrain from using or disclosing that individual's secured information

36.—(1) An individual may make an application to the registrar requiring the registrar to refrain from using or disclosing secured information relating to that individual if that individual—

- (a) is a registrable person in relation to a company;
- (b) proposes to become a registrable person in relation to a company; or
- (c) used to be a registrable person in relation to a company.

(2) The grounds on which an application may be made are that the applicant reasonably believes that if that secured information is disclosed by the registrar—

- (a) the activities of that company; or
- (b) one or more characteristics or personal attributes of the applicant when associated with that company,

will put the applicant or a person living with the applicant at serious risk of being subjected to violence or intimidation.

(3) The application must—

- (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 date of birth of the applicant;
 - (iv) the usual residential address of the applicant;
 - (v) the e-mail address of the applicant, if any;
 - (vi) the name and registered number of the company in relation to which the applicant is, proposes to become, or used to be a registrable person; and
 - (vii) if relevant, a statement that in relation to the applicant an application has also been made under regulation 25, 26 or 27 or a determination has been made in relation to an application under regulation 25(5), 26(7) or 27(7) in favour of the applicant; and
- (b) be accompanied by evidence which supports the applicant's statement of the grounds on which the application is made.

(4) Where an individual who is or used to be a registrable person in relation to a company sends an application under paragraph (1) to the registrar in relation to that company, that individual must inform that company of that fact as soon as reasonably practicable.

(5) The registrar must determine the application and, within 7 days beginning with the date that the determination is made, send to the applicant notice of the determination.

(6) Where the application is unsuccessful, the notice under paragraph (5) must inform the applicant of the applicant's right to apply for permission to appeal against the determination within 28 days beginning with the date of the notice.

Application by a company requiring the registrar to refrain from using or disclosing an individual's secured information

37.—(1) A company (“the applicant”) may make an application to the registrar requiring the registrar to refrain from using or disclosing secured information relating to an individual (“S”) who—

- (a) is a registrable person;
- (b) proposes to become a registrable person; or
- (c) used to be a registrable person,

in relation to that company.

(2) A company may only make an application under paragraph (1) where S has given consent for the company to make the application on S's behalf.

(3) The grounds on which an application may be made are that the applicant reasonably believes that if the secured information is disclosed by the registrar—

- (a) the activities of the applicant; or
- (b) one or more characteristics or personal attributes of S when associated with the applicant, will put S or a person living with S at serious risk of being subjected to violence or intimidation.

(4) The application must—

- (a) contain—
 - (i) a statement of the grounds on which the application is made;
 - (ii) confirmation that S consents to the making of the application;
 - (iii) the name and registered number of the applicant;
 - (iv) the address of the registered office of the applicant;
 - (v) the e-mail address of the applicant, if any;
 - (vi) the name and any former name of S;
 - (vii) the date of birth of S;
 - (viii) the usual residential address of S; and
 - (ix) the e-mail address of S, if any; and
- (b) be accompanied by evidence which supports the applicant's statement of the grounds on which the application is made.

(5) The registrar must determine the application and, within 7 days beginning with the date that the determination is made, send to the applicant and to S notice of the determination.

(6) Where the application is unsuccessful, the notice under paragraph (5) must inform the applicant of the applicant's right to apply for permission to appeal against the determination within 28 days beginning with the date of the notice.

Application by a subscriber to a memorandum of association requiring the registrar to refrain from using or disclosing an individual's secured information

38.—(1) A subscriber to a memorandum of association (“the applicant”) may make an application to the registrar requiring the registrar to refrain from using or disclosing secured information relating to an individual (“S”) who proposes to become, on or after the formation of the company to which the memorandum relates, a registrable person in relation to the company.

(2) A subscriber to a memorandum of association may only make an application under paragraph (1) where S has given consent for the subscriber to make the application on S's behalf.

(3) The grounds on which an application may be made are that the applicant reasonably believes that if the secured information is disclosed by the registrar—

- (a) the proposed activities of the company to which the memorandum relates; or
- (b) one or more characteristics or personal attributes of S when associated with the company to which the memorandum relates,

will put S or a person living with S at serious risk of being subjected to violence or intimidation.

(4) The application must—

- (a) contain—
 - (i) a statement of the grounds on which the application is made;
 - (ii) confirmation that S consents to the making of the application;
 - (iii) the name and any former name of the applicant;
 - (iv) the usual residential address of the applicant;
 - (v) the e-mail address of the applicant, if any;
 - (vi) the name of the company to which the memorandum relates;
 - (vii) the name and any former name of S;
 - (viii) the date of birth of S;
 - (ix) the usual residential address of S; and
 - (x) the e-mail address of S, if any; and
- (b) be accompanied by evidence which supports the applicant's statement of the grounds on which the application is made.

(5) The registrar must determine the application and, within 7 days beginning with the date that the determination is made, send to the applicant and to S notice of the determination.

(6) Where the application is unsuccessful, the notice under paragraph (5) must inform the applicant of the applicant's right to apply for permission to appeal against the determination within 28 days beginning with the date of the notice.

Matters relating to an application made under regulation 36, 37 or 38

39.—(1) For the purpose of determining an application made under regulation 36, 37 or 38 the registrar may—

- (a) direct that additional information or evidence should be delivered to the registrar;
- (b) refer any question relating to an assessment of the nature or extent of any risk of violence or intimidation to a relevant body or to any other person the registrar considers may be able to assist in making that assessment; and
- (c) accept any answer to a question referred under paragraph (1)(b) as providing sufficient evidence of the nature or extent of any risk.

(2) The registrar must not make available for public inspection—

- (a) any application made under regulation 36, 37 or 38;
- (b) any documents provided in support of that application;
- (c) any notice provided under regulation 40 (notice of withdrawal of application);
- (d) any notice provided under regulation 41 (notice of an appeal);
- (e) any notice provided under regulation 43 (notice that determination no longer wanted);
- (f) any notice provided under regulation 44 (representations as to why determination should not be revoked); or

(g) any notice provided under regulation 46 (notice that a person is no longer a registrable person).

(3) A person who makes an application under regulation 36, 37 or 38 must inform the registrar in writing without delay upon becoming aware of any change to any information or evidence provided to the registrar in connection with the application.

(4) For the purposes of this regulation an application under regulation 36, 37 or 38 is made when it has been registered by the registrar.

Withdrawal of an application made under regulation 36, 37 or 38

40.—(1) If a person in relation to whom an application has been made under regulation 36, 37 or 38 that has not yet been determined notifies the registrar in writing that the person no longer wishes the registrar to determine the application, the registrar is not required to determine the application under regulation 36(5), 37(5) or 38(5) (as the case may be).

(2) Where a person in relation to whom an application under regulation 36 or 37 has been made sends a notice to the registrar under paragraph (1), that person must notify the company to which the application related of this fact as soon as reasonably practicable.

(3) Where a person in relation to whom an application under regulation 38 has been made sends a notice to the registrar under paragraph (1), that person must notify the subscriber to the memorandum of association who made the application and, if incorporated, the company to which the application related of this fact as soon as reasonably practicable.

(4) For the purposes of this regulation an application under regulation 36, 37 or 38 is made when it has been registered by the registrar.

Appealing against an unsuccessful application made under regulation 36, 37 or 38

41.—(1) Subject to paragraph (2), an applicant who has received notice under regulation 36(5), 37(5) or 38(5) that the applicant's application has been unsuccessful may appeal to the High Court or, in Scotland, the Court of Session on the grounds that the determination—

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

(2) No appeal may be brought unless the permission of the court has been obtained.

(3) No application for such permission may be made after 28 days beginning with the date of the notice under regulation 36(5), 37(5) or 38(5) unless the court is satisfied that there was good reason for the failure of the applicant to seek permission before the end of that period.

(4) An applicant who seeks permission to appeal must serve written notice of the application on the registrar within 7 days beginning with the date on which the application for permission was issued.

(5) The court determining an appeal may—

- (a) dismiss the appeal; or
- (b) quash the determination.

(6) Where the court quashes a determination 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.

Unsuccessful determination made under regulation 36, 37 or 38

42.—(1) This regulation applies where the registrar has made a determination in respect of an application made under regulation 36, 37 or 38 that is not in favour of the applicant.

(2) The registrar must make secured information on the register to which the application under regulation 36, 37 or 38 relates available for public inspection—

- (a) where notice of an application for permission to appeal has not been served on the registrar in accordance with regulation 41(4), as soon as reasonably practicable after the end of the period of 42 days beginning with the date of the notice given under regulation 36(5), 37(5) or 38(5); or
- (b) where notice of an application for permission to appeal has been served on the registrar in accordance with regulation 41(4), as soon as reasonably practicable after—
 - (i) the court has dismissed the application for permission to appeal or the appeal and there is no further appeal pending; or
 - (ii) the registrar becomes aware that the application for permission to appeal or the appeal has been subsequently withdrawn or abandoned.

(3) Where the registrar makes secured information available for public inspection on the register under this regulation, the registrar must notify the person to whom the secured information relates and the company to which the application under regulation 36, 37 or 38 related of that action as soon as reasonably practicable.

Duration of a determination under regulation 36, 37 or 38

43.—(1) A determination under regulation 36(5), 37(5) or 38(5) that an application is successful continues to have effect until—

- (a) either—
 - (i) the person to whom the determination relates; or
 - (ii) that person's personal representative,notifies the registrar in writing that he or she wishes the determination to cease to have effect; or
- (b) the registrar revokes the determination under regulation 44.

(2) Where a notice is given under paragraph (1)(a), the person giving the notice must also notify the company to which the application that was determined relates of the notice given to the registrar.

Revocation of a determination under regulation 36(5), 37(5) or 38(5)

44.—(1) The registrar may revoke a determination made under regulation 36(5), 37(5) or 38(5) that an application is successful if—

- (a) the applicant in relation to the determination or (if different) any person to whom the application relates has been found guilty of an offence under section 1112 of the Act (general false statement offence) in respect of purported compliance with any provision of this Part;
- (b) the registrar has sent a notice in accordance with paragraph (2) to the applicant in relation to the determination and (if different) the person to whom the determination relates; and
- (c) the period of 28 days beginning with the date of that notice has expired.

(2) The notice mentioned in paragraph (1)(b) must inform the addressee—

- (a) of the registrar's intention to revoke the determination;

- (b) that the addressee may, within 28 days beginning with the date of the notice, deliver representations in writing to the registrar as to why the registrar should not revoke the determination; and
 - (c) that if the registrar receives such representations within that period, the registrar will have regard to the representations in deciding whether to revoke the determination.
- (3) If within the period specified in paragraph (2)(b) an addressee of the notice delivers representations in writing to the registrar as to why the registrar should not revoke the determination, the registrar must have regard to the representations in deciding whether to revoke the determination.
- (4) The registrar must send notice of the registrar's decision as to whether to revoke a determination to the applicant in relation to the determination and (if different) the person to whom the determination relates within 7 days beginning with the date of the decision.
- (5) Where the registrar has made a decision to revoke a determination, the registrar must make secured information on the register to which the determination relates available for public inspection as soon as reasonably practicable after sending the notice mentioned in paragraph (4).
- (6) Where the registrar makes secured information available for public inspection on the register under this regulation, the registrar must notify the person to whom the secured information relates and the company to which the application under regulation 36, 37 or 38 related of that action as soon as reasonably practicable.

Protection by a company of secured information

- 45.**—(1) Subject to paragraph (2), a company must not use or disclose secured information relating to a person (“S”) if—
- (a) in relation to that information an application has been made under regulation 36, 37 or 38; and
 - (b) the company has not received notification under regulation 40(2), 40(3), 42(3), 43(2), 44(6) or 46(5)(b).
- (2) The company may use or disclose secured information relating to S—
- (a) for communicating with S;
 - (b) in order to comply with a requirement of the Act as to particulars to be sent to the registrar; or
 - (c) where S has given consent for the company to use or disclose secured information relating to S.
- (3) For the purposes of this regulation, an application has been made—
- (a) under regulation 36(1)(a) or 36(1)(c) when the applicant has informed the company under regulation 36(4) that the applicant has made an application;
 - (b) under regulation 36(1)(b) when the company has received the particular required by section 790K(1)(i) of the Act in relation to that individual;
 - (c) under regulation 37 when the company sends the application to the registrar; or
 - (d) under regulation 38 when the subscriber to the memorandum sends an application to the registrar.
- (4) Where a company is prohibited under paragraph (1) from using or disclosing any secured information, the company's PSC register is to be treated as not including that information for the purposes of sections 790N(1), 790O(1) and 790O(2) of the Act.

PART 8

TRANSITIONAL PROVISIONS, AMENDMENTS TO THE 2009 REGULATIONS AND REVIEW

Transitional provision regarding the protection of secured information

46.—(1) This regulation applies where—

- (a) an individual is a registrable person on 6th April 2016 (a “protectable person”);
- (b) an application under regulation 36 or 37 is made in relation to the protectable person’s secured information on or before 30th June 2016; and
- (c) the registrar makes a determination that the application is unsuccessful.

(2) Subject to paragraph (4)—

- (a) for the protected period, the registrar must not use or disclose that secured information and must omit that secured information from the material on the register that is available for public inspection; and
- (b) where, before the expiry of the protected period, the protectable person ceases to be a registrable person in relation to the company to which the application relates and notifies the registrar in writing of that fact, after the expiry of the protected period the registrar must not use or disclose the secured information and must omit that secured information from the material on the register that is available for public inspection.

(3) A protectable person who sends a notice to the registrar under paragraph (2)(b) must—

- (a) include in the notice the date on which that protectable person ceased to be a registrable person in relation to the company; and
- (b) send a copy of the notice to the company.

(4) The registrar may use or disclose the secured information for communicating with the protectable person and, where the application was made under regulation 37, the company which made the application.

(5) Where the registrar has not received a notice under paragraph 2(b) before the expiry of the protected period, the registrar must, as soon as reasonably practicable after the expiry of that period—

- (a) make the secured information on the register available for public inspection; and
- (b) notify the protectable person and the company to which the application under regulation 36 or 37 related of that action.

(6) For the purposes of this regulation—

- (a) an application under regulation 36 or 37 is made when it is registered by the registrar; and
- (b) “protected period” means—
 - (i) where an appeal under regulation 41 has not been brought, 12 weeks beginning with the date of the notice sent under regulation 36(5) or 37(5);
 - (ii) where an appeal under regulation 41 has been brought and dismissed, 12 weeks beginning with the date the court dismissed the appeal in accordance with regulation 41(5); or
 - (iii) where an appeal under regulation 41 has been brought and subsequently withdrawn or abandoned, 12 weeks beginning with the date of the registrar becoming aware that such appeal has been withdrawn or abandoned.

Transitional provision for the purpose of section 790K

47. Where an individual or a relevant legal entity is registrable⁽²⁵⁾ in relation to a company on 6th April 2016, the date on which the individual or entity became a registrable person or a registrable relevant legal entity, as the case may be, in relation to the company in question is deemed to be 6th April 2016 for the purposes of sections 790K(1)(g), 790K(2)(d) and 790K(3)(e) of the Act.

Amendments to the 2009 Regulations

48. Schedule 5 (which amends the 2009 Regulations) has effect.

Review

- 49.—(1) The Secretary of State must from time to time—
- (a) carry out a review of these Regulations;
 - (b) set out the conclusions of the review in a report; and
 - (c) publish the report.
- (2) The report must in particular—
- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
 - (b) assess the extent to which those objectives have been achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in another way that imposed less regulation.
- (3) The first report under this regulation must be published within the period in which the Secretary of State is required to publish a report under section 82 of the Small Business, Enterprise and Employment Act 2015⁽²⁶⁾.
- (4) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Date

Name
Parliamentary Under Secretary of State and
Minister for Intellectual Property
Department for Business, Innovation and Skills

⁽²⁵⁾ See sections 790C(4) and (8) of the Act for the meaning of “registrable”.

⁽²⁶⁾ 2015 c.26.