

Draft Regulations laid before Parliament under section 1097A and 1290 of the Companies Act 2006 and section 17(6) of the Limited Liability Partnerships Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2016 No. XXXX

COMPANIES

**The Companies (Address of
Registered Office) Regulations 2016**

Made - - - - *****
Coming into force - - *6th April 2016*

The Secretary of State, in exercise of the powers conferred by section 1097A of the Companies Act 2006⁽¹⁾ and section 15 of the Limited Liability Partnerships Act 2000⁽²⁾, makes the following Regulations.

In accordance with sections 1097A(10) and 1290 of the Companies Act 2006 and section 17(6) of the Limited Liability Partnerships Act 2000, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Companies (Address of Registered Office) Regulations 2016 and come into force on 6th April 2016.

(2) In these Regulations—

- (a) “the 2015 Regulations” means the Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015⁽³⁾;
- (b) “the Act” means the Companies Act 2006;
- (c) “applicant” means the person who has made an application under regulation 2;
- (d) “default address” means an address nominated by the registrar by virtue of rules made under section 1117 of the Act;
- (e) “residential address” means the usual residential address of a director of a company stated in the company’s register of directors’ residential addresses and notified to the registrar under section 167 of the Act;

(1) 2006 c. 46. Section 1097A was inserted into the Act by section 99 of the Small Business, Enterprise and Employment Act 2015 (c.26).
(2) 2000 c. 12.
(3) S.I. 2015/17.

- (f) “service address” means—
- (i) in the case of a director or secretary who is an individual, the address stated in the company’s register of directors or register of secretaries respectively;
 - (ii) in the case of a director or secretary who is a body corporate or a firm that is a legal person under the law by which it is governed, the address of its registered or principal office stated in the company’s register of directors or register of secretaries respectively;
- and notified to the registrar under section 167 or section 276 of the Act.

Application to change a company registered office

2. An application to the registrar to change the address of a company’s registered office may be made by any person.

3. An application to the registrar must—

- (a) state the applicant’s name and address;
- (b) identify the company and the address of its registered office;
- (c) include a statement explaining the grounds of the application; and
- (d) provide any documents or information which supports the application.

4.—(1) An application under these Regulations may be withdrawn by the applicant by written notice to the registrar.

(2) Where an application is withdrawn, the registrar must notify the company of the withdrawal.

5. Upon receiving an application, the registrar must either—

- (a) dismiss the application if the registrar considers there is no reasonable chance of the application succeeding and notify the applicant of the decision under regulation 10; or
- (b) give notice of the application to the company at—
 - (i) the address of its registered office;
 - (ii) the service address of every person who (to the registrar’s knowledge) is a director or secretary of the company;
 - (iii) the residential address of every person who (to the registrar’s knowledge) is a director of the company; and
 - (iv) an address specified by the company for communications in electronic form under paragraph 7 of Schedule 4 to the Act.

6.—(1) The notice given under regulation 5(b) must—

- (a) identify the name of the applicant;
- (b) identify the grounds of the application;
- (c) provide a copy of any documents or information which supported the application;
- (d) state that the registrar will change the address of the company’s registered office to a default address unless within a period specified in the notice by the registrar (the “specified period”)—
 - (i) the company changes the address of its registered office in accordance with section 87 of the Act;

- (ii) the company objects to the application and provides evidence to the satisfaction of the registrar that the company is authorised to use the address as its registered office;
or
 - (iii) the applicant withdraws the application;
 - (e) provide an explanation of evidence that may satisfy the registrar that the company is authorised to use the address as its registered office.
- (2) The specified period must be—
- (a) at least 28 days beginning on the day after the day on which the notice was sent to the company; and
 - (b) may be extended at the discretion of the registrar at any time before the specified period ends.

Determination of an application

7. The registrar, after the specified period, must change the address of a company's registered office to a default address if—
- (a) the registrar is satisfied that the company is not authorised to use the address as its registered office; or
 - (b) the company does not respond to the registrar within the specified period.
8. The registrar must dismiss an application if—
- (a) neither regulation 7(a) nor (b) applies; or
 - (b) the company delivers to the registrar a notice to change the address of the company's registered office under section 87 of the Act within the specified period.
9. For the purposes of determining the application, the registrar may—
- (a) refer the application, or any question relating to the application, for determination by the court;
 - (b) without further enquiry rely on the evidence, or descriptions of evidence, listed in the Schedule, received in connection with an application under these Regulations, to be satisfied that the company is authorised to use the address; or
 - (c) consider information and documents received in connection with any previous application made under these Regulations that is materially the same as the current application.

Notice of the registrar's decision

- 10.—(1) Upon determining an application, the registrar must provide notice of the decision to—
- (a) the applicant; and
 - (b) the company at each of the addresses listed in regulation 5.
- (2) The notice must—
- (a) state the reasons for making the decision; and
 - (b) provide a copy of any evidence upon which the registrar relied.
- (3) Where the registrar changes the address of a company's registered office to a default address, the registrar must also provide details of the default address to the company.

Effect of change of address

11. Where the registrar changes the address of a company's registered office under section 1097A(7) of the Act or these Regulations, the following duties of the company under the Act are suspended for a period of 28 days beginning on the day the address was changed—

- (a) the duty under the following sections of the Act to make company records available for inspection—
 - (i) section 114 (register of members);
 - (ii) section 162 (register of directors);
 - (iii) section 228 (directors' service contracts or memorandum of terms);
 - (iv) section 237 (directors' indemnities);
 - (v) section 275 (register of secretaries);
 - (vi) section 358 (records of resolutions etc.);
 - (vii) sections 388 (accounting records);
 - (viii) section 702 (contracts relating to the purchase of own shares);
 - (ix) section 720 (documents relating to redemption or purchase of own shares out of capital by a private company);
 - (x) section 743 (register of debenture holders);
 - (xi) section 805 (report to members of outcome of investigation by public company into interests in its shares);
 - (xii) section 809 (register of interests in shares disclosed to public company); and
 - (xiii) section 859Q (instruments creating charges);
- (b) the duty to display a company's registered name at the company's registered office under regulation 21(1)(a) of the 2015 Regulations;
- (c) the duty to state information about the company's registered office in descriptions of document or communication specified under regulation 25(1) of the 2015 Regulations;
- (d) the duty to provide information about a company's registered office on request to those persons the company deals with in the course of business under regulation 27(1)(a) of the 2015 Regulations.

Administration of the default address

12. The default address may not be used for the purpose of keeping, or making available for inspection, the company's registers, indexes or other documents.

13. The registrar will not be required to open any documents delivered to the company at the default address.

14.—(1) The registrar must provide for the collection by the company of any documents delivered to the company at the default address, unless the documents have been destroyed in accordance with paragraph (2).

(2) The registrar may destroy any document not collected by the company 12 months after receipt of the document.

15. Where the company has changed the address of its registered office from the default address to a new address under section 87 of the Act, the registrar may forward the documents to the new address.

Appeal to the court

16. An appeal to the court under section 1097A(6) of the Act must be brought within a period of 28 days beginning on—

- (a) the day the address of a company's registered office is changed to a default address; or
- (b) , where the registrar dismissed the application, the day a notice of the registrar's decision is sent under regulation 10.

17. Where an appeal is brought before the court by the company, the duty to display a company's registered name at the company's registered office under regulation 21(1)(a) of the 2015 Regulations is suspended until 28 days after the appeal is withdrawn or the court makes a decision.

Change of address of registered office under section 87 of the Act

18. On receipt of a notice from a company under section 87 of the Act to change the address of the company's registered office from a default address, the registrar may require the company to provide—

- (a) evidence, or descriptions of evidence, listed in the Schedule; or
- (b) any other information or documents that show the company is authorised to use a proposed address as its registered office.

Application to Limited Liability Partnerships

19. The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009(4) are amended as follows.

20. In regulation 66, in section 1087 as applied with modifications by that regulation, after paragraph (h) insert—

- “(ha) any application or document delivered to the registrar under section 1097A (rectification of LLP registered office) other than an order or direction of the court;

21. In regulation 67, after section 1097 as applied with modifications by that regulation, insert—

“1097A Rectification of register relating to LLP registered office

(1) The provisions of the Companies (Address of Registered Office) Regulations 2016(5) (S.I. 2016/[XXXX]) requiring the registrar, on application, to change the address of a company's registered office if the registrar is satisfied that the company is not authorised to use the address, apply to LLPs.

(2) Those provisions are—

- (a) regulations 1 to 18; and
- (b) the Schedule.

(3) In those provisions as they apply to LLPs—

- (a) for “company” substitute “LLP”;
- (b) for “a company” substitute “an LLP”;
- (c) for “director” substitute “member”;
- (d) omit the references to “or secretary”, “or register of secretaries” and “or section 276”;

(4) S.I. 2009/1804, to which there are amendments not relevant to these Regulations.

(5) S.I. 2016/[XXXX].

- (e) all references to “the Act” include references to the Act as applied with modifications to LLPs;
- (f) all references to the “2015 Regulations” include references to the 2015 Regulations as applied with modifications to LLPs;
- (g) in regulation 5, omit paragraph (b)(iv);
- (h) for regulation 11 substitute—

“Effect of change of address

11. Where the registrar changes the address of an LLP’s registered office under section 1097A(6) of the Act or these Regulations, the following duties of the LLP under the Act are suspended for a period of 28 days beginning on the day the address was changed—

- (a) the duty to make LLP records available for inspection including—
 - (i) register of members (section 162)(6);
 - (ii) accounting records (section 388)(7);
 - (iii) register of debenture holders (section 743)(8); and
 - (iv) instruments creating charges (section 859Q)(9);
 - (b) the duty to display an LLP’s registered name at the LLP’s registered office under regulation 21(1)(a) of the 2015 Regulations;
 - (c) the duty to state information about the LLP’s registered office in descriptions of document or communication specified under regulation 25(1) of the 2015 Regulations;
 - (d) the duty to provide information about an LLP’s registered office on request to those persons the LLP deals with in the course of business under regulation 27(1)(a) of the 2015 Regulations.”; and
 - (i) in regulation 16, for “section 1097A(6)” substitute “section 1097A(5)”.
- (4) The applicant and the LLP must provide such information as the registrar may require for the purposes of determining such an application.
- (5) The applicant or the LLP may appeal the outcome of an application under this section to the court.
- (6) On an appeal, the court must direct the registrar to register such address as the registered office of the LLP as the court considers appropriate in all the circumstances of the case.”

Review

- 22.**—(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—

(6) Section 162 was applied with modifications to LLPs by regulation 18 of [S.I. 2009/1804](#).

(7) Section 388 was applied with modifications to LLPs by regulation 6 of [S.I. 2008/1911](#).

(8) Section 743 was applied with modifications to LLPs by regulation 21 of [S.I. 2009/1804](#).

(9) Section 859Q was applied with modifications to LLPs by regulation 32 of [S.I. 2009/1804](#), which was amended by [S.I. 2013/618](#).

- (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 are achieved, and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (3) The first report under this regulation must be published before the end of the period of 5 years beginning with the day on which these Regulations come into force.
- (4) Reports under this regulation are afterwards to be published at intervals not exceeding 5 years.

Date

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

SCHEDULE

Regulations 9(b) and 18(a)

EVIDENCE, OR DESCRIPTIONS OF EVIDENCE, THE REGISTRAR MAY RELY ON WITHOUT FURTHER ENQUIRY

1. Documentation evidencing proprietary rights of the company or a group undertaking, including leasehold or a freehold, in the address of the registered office, of the company.
2. A written agreement entitling the company or a group undertaking to use the address as the company's registered office.
3. A utility bill addressed to the company or a group undertaking at the address of the registered office and dated no more than 6 months before the date on which the registrar gives notice under regulation 5(b).

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations make provision relating to applications to change the address of a company's registered office. The address will be changed if the registrar is satisfied that the company is not authorised to use the address. When an application is successful, the registrar must change the address of the company's registered office to an address that has previously been nominated by the registrar (otherwise known as a "default address").

Regulations 2 to 6 provide for the initial application process. Applications may be made by any person (regulation 2) and must include the information specified in regulation 3. Unless the registrar dismisses the application immediately because there is no reasonable prospect of success, the registrar must give notice to the company of the application and invite the company to provide evidence that would satisfy the registrar that the company is authorised to use the address as its registered office (regulations 5 and 6).

Unless the company itself decides to change the address of its registered office, the company must respond with evidence that will satisfy the registrar that the company is authorised to use the address as its registered office. If the company fails to provide adequate evidence within the specified period, the registrar must change the address of the registered office to a default address (regulations 7 and 8).

Regulation 9 makes provision assisting the registrar in how to determine an application. This includes the ability of the registrar to refer applications or questions relating to the application to the court. The registrar may also, without further enquiry, rely on evidence listed in the Schedule, to be satisfied that the company is authorised to use the address as its registered office. This includes, for example, evidence suggesting the company or a related group undertaking has a proprietary interest at the address subject to the application.

Upon determining an application, the registrar must give notice of the decision to both parties involved (regulation 10). Either the applicant or the company is entitled to bring an application to the court under section 1097A(6), but any application must be brought within 28 days (regulation 16).

Where the address of a registered office is changed by the registrar (after a successful application or following direction from the court), the duties specified under regulations 11 and 17 (which relate to inspection of company records, or the disclosure or display of information) are temporarily suspended for 28 days or, where an appeal is brought by the company, throughout the appeal process.

Where a default address is used as a registered office, regulations 12 to 15 provide how the default address may be administered by the registrar, and for what purposes the default address may be used. In particular, regulations 14 and 15 provide for the way in which the company may receive documents delivered to the company at the default address.

When the address of the registered office has been changed to a default address, Regulation 18 enables the registrar to require evidence that a company is authorised to use an address when the company gives notice to change the address of its registered office.

Regulations 19 to 21 amend the Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 to apply, with modifications, these Regulations to LLPs.

Regulation 22 requires the Secretary of State to review the operation and effect of these Regulations and publish a report within 5 years after they come into force and within every 5 years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them.

A regulatory impact assessment of the effect that this instrument will have on the costs to business and the voluntary sector is available from the Business Environment Directorate, Department for Business, Innovation and Skills, 1 Victoria Street, London SW1H 0ET or from www.gov.uk/bis and is annexed to the Explanatory Memorandum which is available alongside the instrument at www.legislation.gov.uk.