

# SCHEDULES

## SCHEDULE 3

Section 81

### REGISTER OF PEOPLE WITH SIGNIFICANT CONTROL

#### PART 1

##### DUTY TO OBTAIN INFORMATION AND KEEP REGISTER

1 After Part 21 of the Companies Act 2006 insert—

#### “PART 21A

##### INFORMATION ABOUT PEOPLE WITH SIGNIFICANT CONTROL

#### CHAPTER 1

##### INTRODUCTION

#### 790A Overview

This Part is arranged as follows—

- (a) the remaining provisions of this Chapter identify the companies to which this Part applies and explain some key terms, including what it means to have “significant control” over a company,
- (b) Chapter 2 imposes duties on companies to gather information, and on others to supply information, to enable companies to keep the register required by Chapter 3,
- (c) Chapter 3 requires companies to keep a register, referred to as a register of people with significant control over the company, and to make the register available to the public,
- (d) Chapter 4 gives private companies the option of using an alternative method of record-keeping, and
- (e) Chapter 5 makes provision for excluding certain material from the information available to the public.

#### 790B Companies to which this Part applies

(1) This Part applies to companies other than—

- (a) DTR5 issuers, and
- (b) companies of any description specified by the Secretary of State by regulations.

- (2) In deciding whether to specify a description of company, the Secretary of State is to have regard to the extent to which companies of that description are bound by disclosure and transparency rules (in the United Kingdom or elsewhere) broadly similar to the ones applying to DTR5 issuers.
- (3) A “DTR5 issuer” is an issuer to which Chapter 5 of the Disclosure Rules and Transparency Rules sourcebook made by the Financial Conduct Authority (as amended or replaced from time to time) applies.
- (4) Regulations under this section are subject to affirmative resolution procedure.

### **790C Key terms**

- (1) This section explains some key terms used in this Part.
- (2) References to a person with (or having) “significant control” over a company are to an individual who meets one or more of the specified conditions in relation to the company.
- (3) The “specified conditions” are those specified in Part 1 of Schedule 1A.
- (4) Individuals with significant control over a company are either “registrable” or “non-registrable” in relation to the company—
  - (a) they are “non-registrable” if they do not hold any interest in the company except through one or more other legal entities over each of which they have significant control and each of which is a “relevant legal entity” in relation to the company;
  - (b) otherwise, they are “registrable”,
 and references to a “registrable person” in relation to a company are to an individual with significant control over the company who is registrable in relation to that company.
- (5) A “legal entity” is a body corporate or a firm that is a legal person under the law by which it is governed.
- (6) In relation to a company, a legal entity is a “relevant legal entity” if—
  - (a) it would have come within the definition of a person with significant control over the company if it had been an individual, and
  - (b) it is subject to its own disclosure requirements.
- (7) A legal entity is “subject to its own disclosure requirements” if—
  - (a) this Part applies to it (whether by virtue of section 790B or another enactment that extends the application of this Part),
  - (b) it is a DTR5 issuer,
  - (c) it is of a description specified in regulations under section 790B (or that section as extended), or
  - (d) it is of a description specified by the Secretary of State by regulations made under this paragraph.
- (8) A relevant legal entity is either “registrable” or “non-registrable” in relation to a company—

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- (a) it is “non-registrable” if it does not hold any interest in the company except through one or more other legal entities over each of which it has significant control and each of which is also a relevant legal entity in relation to the company;
  - (b) otherwise, it is “registrable”,and references to a “registrable relevant legal entity” in relation to a company are to a relevant legal entity which is registrable in relation to that company.
- (9) For the purposes of subsections (4) and (8)—
  - (a) whether someone—
    - (i) holds an interest in a company, or
    - (ii) holds that interest through another legal entity,is to be determined in accordance with Part 2 of Schedule 1A;
  - (b) whether someone has significant control over that other legal entity is to be determined in accordance with subsections (2) and (3) and Part 1 of Schedule 1A, reading references in those provisions to the company as references to that other entity.
- (10) The register that a company is required to keep under section 790M (register of people with significant control over a company) is referred to as the company’s “PSC register”.
- (11) In deciding whether to specify a description of legal entity under paragraph (d) of subsection (7), the Secretary of State is to have regard to the extent to which entities of that description are bound by disclosure and transparency rules (in the United Kingdom or elsewhere) broadly similar to the ones applying to an entity falling within any other paragraph of that subsection.
- (12) Subject to express provision in this Part and to any modification prescribed by regulations under this subsection, this Part is to be read and have effect as if each of the following were an individual, even if they are legal persons under the laws by which they are governed—
  - (a) a corporation sole,
  - (b) a government or government department of a country or territory or a part of a country or territory,
  - (c) an international organisation whose members include two or more countries or territories (or their governments),
  - (d) a local authority or local government body in the United Kingdom or elsewhere.
- (13) Regulations under subsection (7)(d) are subject to affirmative resolution procedure.
- (14) Subject to subsection (13), regulations under this section are subject to negative resolution procedure.

## CHAPTER 2

### INFORMATION-GATHERING

#### *Duty on companies*

#### **790D Company's duty to investigate and obtain information**

- (1) A company to which this Part applies must take reasonable steps—
  - (a) to find out if there is anyone who is a registrable person or a registrable relevant legal entity in relation to the company, and
  - (b) if so, to identify them.
- (2) Without limiting subsection (1), a company to which this Part applies must give notice to anyone whom it knows or has reasonable cause to believe to be a registrable person or a registrable relevant legal entity in relation to it.
- (3) The notice, if addressed to an individual, must require the addressee—
  - (a) to state whether or not he or she is a registrable person in relation to the company (within the meaning of this Part), and
  - (b) if so, to confirm or correct any particulars of his or hers that are included in the notice, and supply any that are missing.
- (4) The notice, if addressed to a legal entity, must require the addressee—
  - (a) to state whether or not it is a registrable relevant legal entity in relation to the company (within the meaning of this Part), and
  - (b) if so, to confirm or correct any of its particulars that are included in the notice, and supply any that are missing.
- (5) A company to which this Part applies may also give notice to a person under this section if it knows or has reasonable cause to believe that the person—
  - (a) knows the identity of someone who falls within subsection (6), or
  - (b) knows the identity of someone likely to have that knowledge.
- (6) The persons who fall within this subsection are—
  - (a) any registrable person in relation to the company;
  - (b) any relevant legal entity in relation to the company;
  - (c) any entity which would be a relevant legal entity in relation to the company but for the fact that section 790C(6)(b) does not apply in respect of it.
- (7) A notice under subsection (5) may require the addressee—
  - (a) to state whether or not the addressee knows the identity of—
    - (i) any person who falls within subsection (6), or
    - (ii) any person likely to have that knowledge, and
  - (b) if so, to supply any particulars of theirs that are within the addressee's knowledge, and state whether or not the particulars are being supplied with the knowledge of each of the persons concerned.

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- (8) A notice under this section must state that the addressee is to comply with the notice by no later than the end of the period of one month beginning with the date of the notice.
- (9) The Secretary of State may by regulations make further provision about the giving of notices under this section, including the form and content of any such notices and the manner in which they must be given.
- (10) Regulations under subsection (9) are subject to negative resolution procedure.
- (11) A company is not required to take steps or give notice under this section with respect to a registrable person or registrable relevant legal entity if—
  - (a) the company has already been informed of the person’s status as a registrable person or registrable relevant legal entity in relation to it, and been supplied with all the particulars, and
  - (b) in the case of a registrable person, the information and particulars were provided either by the person concerned or with his or her knowledge.
- (12) A person to whom a notice under subsection (5) is given is not required by that notice to disclose any information in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.
- (13) In this section—
  - (a) a reference to knowing the identity of a person includes knowing information from which that person can be identified, and
  - (b) “particulars” means—
    - (i) in the case of a registrable person or a registrable relevant legal entity, the required particulars (see section 790K), and
    - (ii) in any other case, any particulars that will allow the person to be contacted by the company.

#### **790E Company’s duty to keep information up-to-date**

- (1) This section applies if particulars of a registrable person or registrable relevant legal entity are stated in a company’s PSC register.
- (2) The company must give notice to the person or entity if the company knows or has reasonable cause to believe that a relevant change has occurred.
- (3) In the case of a registrable person, a “relevant change” occurs if—
  - (a) the person ceases to be a registrable person in relation to the company, or
  - (b) any other change occurs as a result of which the particulars stated for the person in the PSC register are incorrect or incomplete.
- (4) In the case of a registrable relevant legal entity, a “relevant change” occurs if—
  - (a) the entity ceases to be a registrable relevant legal entity in relation to the company, or

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- (b) any other change occurs as a result of which the particulars stated for the entity in the PSC register are incorrect or incomplete.
- (5) The company must give the notice as soon as reasonably practicable after it learns of the change or first has reasonable cause to believe that the change has occurred.
- (6) The notice must require the addressee—
  - (a) to confirm whether or not the change has occurred, and
  - (b) if so—
    - (i) to state the date of the change, and
    - (ii) to confirm or correct the particulars included in the notice, and supply any that are missing from the notice.
- (7) Subsections (8) to (10) of section 790D apply to notices under this section as to notices under that section.
- (8) A company is not required to give notice under this section if—
  - (a) the company has already been informed of the relevant change, and
  - (b) in the case of a registrable person, that information was provided either by the person concerned or with his or her knowledge.

#### **790F Failure by company to comply with information duties**

- (1) If a company fails to comply with a duty under section 790D or 790E to take steps or give notice, an offence is committed by—
  - (a) the company, and
  - (b) every officer of the company who is in default.
- (2) A person guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding twelve months or a fine (or both);
    - (ii) in Scotland, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);
    - (iii) in Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum (or both).

#### *Duty on others*

#### **790G Duty to supply information**

- (1) This section applies to a person if—
  - (a) the person is a registrable person or a registrable relevant legal entity in relation to a company,
  - (b) the person knows that to be the case or ought reasonably to do so,

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- (c) the required particulars of the person are not stated in the company's PSC register,
  - (d) the person has not received notice from the company under section 790D(2), and
  - (e) the circumstances described in paragraphs (a) to (d) have continued for a period of at least one month.
- (2) The person must—
  - (a) notify the company of the person's status (as a registrable person or registrable relevant legal entity) in relation to the company,
  - (b) state the date, to the best of the person's knowledge, on which the person acquired that status, and
  - (c) give the company the required particulars (see section 790K).
- (3) The duty under subsection (2) must be complied with by the end of the period of one month beginning with the day on which all the conditions in subsection (1)(a) to (e) were first met with respect to the person.

#### **790H Duty to update information**

- (1) This section applies to a person if—
  - (a) the required particulars of the person (whether a registrable person or a registrable relevant legal entity) are stated in a company's PSC register,
  - (b) a relevant change occurs,
  - (c) the person knows of the change or ought reasonably to do so,
  - (d) the company's PSC register has not been altered to reflect the change, and
  - (e) the person has not received notice from the company under section 790E by the end of the period of one month beginning with the day on which the change occurred.
- (2) The person must—
  - (a) notify the company of the change,
  - (b) state the date on which it occurred, and
  - (c) give the company any information needed to update the PSC register.
- (3) The duty under subsection (2) must be complied with by the later of—
  - (a) the end of the period of 2 months beginning with the day on which the change occurred, and
  - (b) the end of the period of one month beginning with the day on which the person discovered the change.
- (4) "Relevant change" has the same meaning as in section 790E.

## *Compliance*

### **790I Enforcement of disclosure requirements**

Schedule 1B contains provisions for when a person (whether an individual or a legal entity) fails to comply with a notice under section 790D or 790E or a duty under section 790G or 790H.

## *Exemption from information and registration requirements*

### **790J Power to make exemptions**

- (1) The Secretary of State may exempt a person (whether an individual or a legal entity) under this section.
- (2) The effect of an exemption is—
  - (a) the person is not required to comply with any notice under section 790D(2) or 790E (but if a notice is received, the person must bring the existence of the exemption to the attention of the company that sent it),
  - (b) companies are not obliged to take steps or give notice under those sections to or with respect to that person,
  - (c) notices under section 790D(5) do not require anyone else to give any information about that person,
  - (d) the duties imposed by sections 790G and 790H do not apply to that person, and
  - (e) the person does not count for the purposes of section 790M as a registrable person or, as the case may be, a registrable relevant legal entity in relation to any company.
- (3) The Secretary of State must not grant an exemption under this section unless the Secretary of State is satisfied that, having regard to any undertaking given by the person to be exempted, there are special reasons why that person should be exempted.

## *Required particulars*

### **790K Required particulars**

- (1) The “required particulars” of an individual who is a registrable person are—
  - (a) name,
  - (b) a service address,
  - (c) the country or state (or part of the United Kingdom) in which the individual is usually resident,
  - (d) nationality,
  - (e) date of birth,
  - (f) usual residential address,
  - (g) the date on which the individual became a registrable person in relation to the company in question,



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- (h) the nature of his or her control over that company (see Schedule 1A), and
  - (i) if, in relation to that company, restrictions on using or disclosing any of the individual's PSC particulars are in force under regulations under section 790ZG, that fact.
- (2) In the case of a person in relation to which this Part has effect by virtue of section 790C(12) as if the person were an individual, the "required particulars" are—
  - (a) name,
  - (b) principal office,
  - (c) the legal form of the person and the law by which it is governed,
  - (d) the date on which it became a registrable person in relation to the company in question, and
  - (e) the nature of its control over the company (see Schedule 1A).
- (3) The "required particulars" of a registrable relevant legal entity are—
  - (a) corporate or firm name,
  - (b) registered or principal office,
  - (c) the legal form of the entity and the law by which it is governed,
  - (d) if applicable, the register of companies in which it is entered (including details of the state) and its registration number in that register,
  - (e) the date on which it became a registrable relevant legal entity in relation to the company in question, and
  - (f) the nature of its control over that company (see Schedule 1A).
- (4) Section 163(2) (particulars of directors to be registered: individuals) applies for the purposes of subsection (1).
- (5) The Secretary of State may by regulations make further provision about the particulars required by subsections (1)(h), (2)(e) and (3)(f).
- (6) Regulations under subsection (5) are subject to negative resolution procedure.

### **790L Required particulars: power to amend**

- (1) The Secretary of State may by regulations amend section 790K so as to add to or remove from any of the lists of required particulars.
- (2) Regulations under this section are subject to affirmative resolution procedure.

## **CHAPTER 3**

### **REGISTER OF PEOPLE WITH SIGNIFICANT CONTROL**

### **790M Duty to keep register**

- (1) A company to which this Part applies must keep a register of people with significant control over the company.

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- (2) The required particulars of any individual with significant control over the company who is “registrable” in relation to the company must be entered in the register once all the required particulars of that individual have been confirmed.
- (3) The company must not enter any of the individual’s particulars in the register until they have all been confirmed.
- (4) Particulars of any individual with significant control over the company who is “non-registrable” in relation to the company must not be entered in the register.
- (5) But the required particulars of any entity that is a registrable relevant legal entity in relation to the company must be noted in the register once the company becomes aware of the entity’s status as such.
- (6) If the company becomes aware of a relevant change (within the meaning of section 790E) with respect to a registrable person or registrable relevant legal entity whose particulars are stated in the register—
  - (a) details of the change and the date on which it occurred must be entered in the register, but
  - (b) in the case of a registrable person, the details and date must not be entered there until they have all been confirmed.
- (7) The Secretary of State may by regulations require additional matters to be noted in a company’s PSC register.
- (8) Regulations under subsection (7) are subject to affirmative resolution procedure.
- (9) A person’s required particulars, and the details and date of any relevant change with respect to a person, are considered for the purposes of this section to have been “confirmed” if—
  - (a) the person supplied or confirmed them to the company (whether voluntarily, pursuant to a duty imposed by this Part or otherwise),
  - (b) another person did so but with that person’s knowledge, or
  - (c) they were included in a statement of initial significant control delivered to the registrar under section 9 by subscribers wishing to form the company.
- (10) In the case of someone who was a registrable person or a registrable relevant legal entity in relation to the company on its incorporation—
  - (a) the date to be entered in the register as the date on which the individual became a registrable person, or the entity became a registrable relevant legal entity, is to be the date of incorporation, and
  - (b) in the case of a registrable person, that particular is deemed to have been “confirmed”.
- (11) For the purposes of this section—
  - (a) if a person’s usual residential address is the same as his or her service address, the entry for him or her in the register may state that fact instead of repeating the address (but this does not apply in a case

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- where the service address is stated to be “The company’s registered office”);
- (b) nothing in section 126 (trusts not to be entered on register) affects what may be entered in a company’s PSC register or is receivable by the registrar in relation to people with significant control over a company (even if they are members of the company);
  - (c) see section 790J (exemptions) for cases where a person does not count as a registrable person or a registrable relevant legal entity.
- (12) If a company makes default in complying with this section, an offence is committed by—
- (a) the company, and
  - (b) every officer of the company who is in default.
- (13) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.
- (14) A company to which this Part applies is not by virtue of anything done for the purposes of this section affected with notice of, or put upon inquiry as to, the rights of any person in relation to any shares or rights in or with respect to the company.

#### **790N Register to be kept available for inspection**

- (1) A company’s PSC register must be kept available for inspection—
  - (a) at its registered office, or
  - (b) at a place specified in regulations under section 1136.
- (2) A company must give notice to the registrar of the place where its PSC register is kept available for inspection and of any change in that place.
- (3) No such notice is required if the register has, at all times since it came into existence, been kept available for inspection at the company’s registered office.
- (4) If a company makes default for 14 days in complying with subsection (2), an offence is committed by—
  - (a) the company, and
  - (b) every officer of the company who is in default.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

#### **790O Rights to inspect and require copies**

- (1) A company’s PSC register must be open to the inspection of any person without charge.
- (2) Any person may require a copy of a company’s PSC register, or any part of it, on payment of such fee as may be prescribed.

- (3) A person seeking to exercise either of the rights conferred by this section must make a request to the company to that effect.
- (4) The request must contain the following information—
  - (a) in the case of an individual, his or her name and address,
  - (b) in the case of an organisation, the name and address of an individual responsible for making the request on behalf of the organisation, and
  - (c) the purpose for which the information is to be used.

#### **790P PSC register: response to request for inspection or copy**

- (1) Where a company receives a request under section 790O, it must within 5 working days either—
  - (a) comply with the request, or
  - (b) apply to the court.
- (2) If it applies to the court, it must notify the person making the request.
- (3) If on an application under this section the court is satisfied that the inspection or copy is not sought for a proper purpose—
  - (a) it must direct the company not to comply with the request, and
  - (b) it may further order that the company's costs (in Scotland, expenses) on the application be paid in whole or in part by the person who made the request, even if that person is not a party to the application.
- (4) If the court makes such a direction and it appears to the court that the company is or may be subject to other requests made for a similar purpose (whether made by the same person or different persons), it may direct that the company is not to comply with any such request.

The order must contain such provision as appears to the court appropriate to identify the requests to which it applies.

- (5) If on an application under this section the court does not direct the company not to comply with the request, the company must comply with the request immediately upon the court giving its decision or, as the case may be, the proceedings being discontinued.

#### **790Q PSC register: refusal of inspection or default in providing copy**

- (1) If an inspection required under section 790O is refused or default is made in providing a copy required under that section, otherwise than in accordance with an order of the court, an offence is committed by—
  - (a) the company, and
  - (b) every officer of the company who is in default.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

- (3) In the case of any such refusal or default the court may by order compel an immediate inspection or, as the case may be, direct that the copy required be sent to the person requesting it.

**790R PSC register: offences in connection with request for or disclosure of information**

- (1) It is an offence for a person knowingly or recklessly to make in a request under section 790O a statement that is misleading, false or deceptive in a material particular.
- (2) It is an offence for a person in possession of information obtained by exercise of either of the rights conferred by that section—
- (a) to do anything that results in the information being disclosed to another person, or
  - (b) to fail to do anything with the result that the information is disclosed to another person,
- knowing, or having reason to suspect, that person may use the information for a purpose that is not a proper purpose.
- (3) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine (or both);
    - (ii) in Scotland, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);
    - (iii) in Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum (or both).

**790S Information as to state of register**

- (1) Where a person inspects the PSC register, or the company provides a person with a copy of the register or any part of it, the company must inform the person of the most recent date (if any) on which alterations were made to the register and whether there are further alterations to be made.
- (2) If a company fails to provide the information required under subsection (1), an offence is committed by—
- (a) the company, and
  - (b) every officer of the company who is in default.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**790T Protected information**

- (1) Section 790N and subsections (1) and (2) of section 790O are subject to—

- (a) section 790ZF (protection of information as to usual residential address), and
  - (b) any provision of regulations made under section 790ZG (protection of material).
- (2) Subsection (1) is not to be taken to affect the generality of the power conferred by virtue of section 790ZG(3)(f).

#### **790U Removal of entries from the register**

- (1) An entry relating to an individual who used to be a registrable person may be removed from the company's PSC register after the expiration of 10 years from the date on which the individual ceased to be a registrable person in relation to the company.
- (2) An entry relating to an entity that used to be a registrable relevant legal entity may be removed from the company's PSC register after the expiration of 10 years from the date on which the entity ceased to be a registrable relevant legal entity in relation to the company.

#### **790V Power of court to rectify register**

- (1) If—
  - (a) the name of any person is, without sufficient cause, entered in or omitted from a company's PSC register as a registrable person or registrable relevant legal entity, or
  - (b) default is made or unnecessary delay takes place in entering on the PSC register the fact that a person has ceased to be a registrable person or registrable relevant legal entity,
 the person aggrieved or any other interested party may apply to the court for rectification of the register.
- (2) The court may either refuse the application or may order rectification of the register and payment by the company of any damages sustained by any party aggrieved.
- (3) On such an application, the court may—
  - (a) decide any question as to whether the name of any person who is a party to the application should or should not be entered in or omitted from the register, and
  - (b) more generally, decide any question necessary or expedient to be decided for rectification of the register.
- (4) In the case of a company required by this Act to send information stated in its PSC register to the registrar of companies, the court, when making an order for rectification of the register, must by its order direct notice of the rectification to be given to the registrar.
- (5) The reference in this section to “any other interested party” is to—
  - (a) any member of the company, and
  - (b) any other person who is a registrable person or a registrable relevant legal entity in relation to the company.

## CHAPTER 4

### ALTERNATIVE METHOD OF RECORD-KEEPING

#### **790W Introductory**

- (1) This Chapter sets out rules allowing private companies to keep information on the register kept by the registrar instead of entering it in their PSC register.
- (2) The register kept by the registrar (see section 1080) is referred to in this Chapter as “the central register”.
- (3) Chapter 3 must be read with this Chapter.
- (4) Nothing in this Chapter affects the duties imposed by Chapter 2.
- (5) Where an election under section 790X is in force in respect of a company, references in Chapter 2 to the company’s PSC register are to be read as references to the central register.

#### **790X Right to make an election**

- (1) An election may be made under this section—
  - (a) by the subscribers wishing to form a private company under this Act, or
  - (b) by the private company itself once it is formed and registered.
- (2) The election is of no effect unless—
  - (a) notice of the intention to make the election was given to each eligible person at least 14 days before the day on which the election was made, and
  - (b) no objection was received by the subscribers or, as the case may be, the company from any eligible person within that notice period.
- (3) A person is an “eligible person” if—
  - (a) in a case of an election by the subscribers wishing to form a private company, the person’s particulars would, but for the election, be required to be entered in the company’s PSC register on its incorporation, and
  - (b) in the case of an election by the company itself—
    - (i) the person is a registrable person or a registrable relevant legal entity in relation to the company, and
    - (ii) the person’s particulars are stated in the company’s PSC register.
- (4) An election under this section is made by giving notice of election to the registrar.
- (5) If the notice is given by subscribers wishing to form a private company—
  - (a) it must be given when the documents required to be delivered under section 9 are delivered to the registrar, and

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- (b) it must be accompanied by a statement confirming that no objection was received as mentioned in subsection (2).
- (6) If the notice is given by the company, it must be accompanied by—
  - (a) a statement confirming that no objection was received as mentioned in subsection (2), and
  - (b) a statement containing all the information that is required to be contained in the company's PSC register as at the date of the notice in respect of matters that are current as at that date.
- (7) The company must where necessary update the statement sent under subsection (6)(b) to ensure that the final version delivered to the registrar contains all the information that is required to be contained in the company's PSC register as at the time immediately before the election takes effect (see section 790Y) in respect of matters that are current as at that time.
- (8) The obligation in subsection (7) to update the statement includes an obligation to rectify it (where necessary) in consequence of the company's PSC register being rectified (whether before or after the election takes effect).
- (9) If default is made in complying with subsection (7), an offence is committed by—
  - (a) the company, and
  - (b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.
- (10) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.
- (11) A reference in this Chapter to matters that are current as at a given date or time is a reference to—
  - (a) persons who are a registrable person or registrable relevant legal entity in relation to the company as at that date or time and whose particulars are required to be contained in the company's PSC register as at that date or time, and
  - (b) any other matters that are current as at that date or time.

#### **790Y Effective date of election**

- (1) An election made under section 790X takes effect when the notice of election is registered by the registrar.
- (2) The election remains in force until either—
  - (a) the company ceases to be a private company, or
  - (b) a notice of withdrawal sent by the company under section 790ZD is registered by the registrar,
 whichever occurs first.



### **790Z Effect of election on obligations under Chapter 3**

- (1) The effect of an election under section 790X on a company's obligations under Chapter 3 is as follows.
- (2) The company's obligation to maintain a PSC register does not apply with respect to the period when the election is in force.
- (3) This means that, during that period—
  - (a) the company must continue to keep a PSC register in accordance with Chapter 3 (a "historic" register) containing all the information that was required to be stated in that register as at the time immediately before the election took effect, but
  - (b) the company does not have to update that register to reflect any changes that occur after that time.
- (4) The provisions of Chapter 3 (including the rights to inspect or require copies of the PSC register) continue to apply to the historic register during the period when the election is in force.
- (5) The company must place a note in its historic register—
  - (a) stating that an election under section 790X is in force,
  - (b) recording when that election took effect, and
  - (c) indicating that up-to-date information about people with significant control over the company is available for public inspection on the central register.
- (6) Subsections (12) and (13) of section 790M apply if a company makes default in complying with subsection (5) as they apply if a company makes default in complying with that section.
- (7) The obligations under this section with respect to a historic register do not apply in a case where the election was made by subscribers wishing to form a private company.

### **790ZA Duty to notify registrar of changes**

- (1) The duty under subsection (2) applies during the period when an election under section 790X is in force.
- (2) The company must deliver to the registrar any information that the company would during that period have been obliged under Chapter 3 to enter in its PSC register, had the election not been in force.
- (3) The information must be delivered as soon as reasonably practicable after the company becomes aware of it and, in any event, no later than the time by which the company would have been required to enter the information in its PSC register.
- (4) If default is made in complying with this section, an offence is committed by—
  - (a) the company, and
  - (b) every officer of the company who is in default.

For this purpose a shadow director is treated as an officer of the company.

- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

#### **790ZB Information as to state of central register**

- (1) When a person inspects or requests a copy of material on the central register relating to a company in respect of which an election under section 790X is in force, the person may ask the company to confirm that all information that the company is required to deliver to the registrar under this Chapter has been delivered.
- (2) If a company fails to respond to a request under subsection (1), an offence is committed by—
- (a) the company, and
  - (b) every officer of the company who is in default.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **790ZC Power of court to order company to remedy default or delay**

- (1) This section applies if—
- (a) the name of a person is without sufficient cause included in, or omitted from, information that a company delivers to the registrar under this Chapter concerning persons who are a registrable person or a registrable relevant legal entity in relation to the company, or
  - (b) default is made or unnecessary delay takes place in informing the registrar under this Chapter that a person—
    - (i) has become a registrable person or a registrable relevant legal entity in relation to the company, or
    - (ii) has ceased to be a registrable person or a registrable relevant legal entity in relation to it.
- (2) The person aggrieved, or any other interested party, may apply to the court for an order requiring the company to deliver to the registrar the information (or statements) necessary to rectify the position.
- (3) The court may either refuse the application or may make the order and order the company to pay any damages sustained by any party aggrieved.
- (4) On such an application the court may decide—
- (a) any question as to whether the name of any person who is a party to the application should or should not be included in or omitted from information delivered to the registrar under this Chapter about persons who are a registrable person or a registrable relevant legal entity in relation to the company, and
  - (b) any question necessary or expedient to be decided for rectifying the position.

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- (5) Nothing in this section affects a person's rights under section 1095 or 1096 (rectification of register on application to registrar or under court order).
- (6) The reference in this section to "any other interested party" is to—
  - (a) any member of the company, and
  - (b) any other person who is a registrable person or a registrable relevant legal entity in relation to the company.

#### **790ZD Withdrawing the election**

- (1) A company may withdraw an election made by or in respect of it under section 790X.
- (2) Withdrawal is achieved by giving notice of withdrawal to the registrar.
- (3) The withdrawal takes effect when the notice is registered by the registrar.
- (4) The effect of withdrawal is that the company's obligation under Chapter 3 to maintain a PSC register applies from then on with respect to the period going forward.
- (5) This means that, when the withdrawal takes effect—
  - (a) the company must enter in its PSC register all the information that is required to be contained in that register in respect of matters that are current as at that time,
  - (b) the company must also retain in its register all the information that it was required under section 790Z(3)(a) to keep in a historic register while the election was in force, but
  - (c) the company is not required to enter in its register information relating to the period when the election was in force that is no longer current.
- (6) The company must place a note in its PSC register—
  - (a) stating that the election under section 790X has been withdrawn,
  - (b) recording when that withdrawal took effect, and
  - (c) indicating that information about people with significant control over the company relating to the period when the election was in force that is no longer current is available for public inspection on the central register.
- (7) Subsections (12) and (13) of section 790M apply if a company makes default in complying with subsection (6) as they apply if a company makes default in complying with that section.

#### **790ZE Power to extend option to public companies**

- (1) The Secretary of State may by regulations amend this Act—
  - (a) to extend this Chapter (with or without modification) to public companies or public companies of a class specified in the regulations, and
  - (b) to make such other amendments as the Secretary of State thinks fit in consequence of that extension.

- (2) Regulations under this section are subject to affirmative resolution procedure.

## CHAPTER 5

### PROTECTION FROM DISCLOSURE

#### **790ZF Protection of information as to usual residential address**

- (1) The provisions of sections 240 to 244 (directors' residential addresses: protection from disclosure) apply to information within subsection (2) as to protected information within the meaning of those sections.
- (2) The information within this subsection is—
  - (a) information as to the usual residential address of a person with significant control over a company, and
  - (b) the information that such a person's service address is his or her usual residential address.
- (3) Subsection (1) does not apply to information relating to a person if an application under regulations made under section 790ZG has been granted with respect to that information and not been revoked.

#### **790ZG Power to make regulations protecting material**

- (1) The Secretary of State may by regulations make provision requiring the registrar and the company to refrain from using or disclosing PSC particulars of a prescribed kind (or to refrain from doing so except in prescribed circumstances) where an application is made to the registrar requesting them to refrain from so doing.
- (2) "PSC particulars" are particulars of a person with significant control over the company—
  - (a) including a person who used to be such a person, but
  - (b) excluding any person in relation to which this Part has effect by virtue of section 790C(12) as if the person were an individual.
- (3) Regulations under this section may make provision as to—
  - (a) who may make an application,
  - (b) the grounds on which an application may be made,
  - (c) the information to be included in and documents to accompany an application,
  - (d) how an application is to be determined,
  - (e) the duration of and procedures for revoking the restrictions on use and disclosure,
  - (f) the operation of sections 790N to 790S in cases where an application is made, and
  - (g) the charging of fees by the registrar for disclosing PSC particulars where the regulations permit disclosure, by way of exception, in prescribed circumstances.

- (4) Provision under subsection (3)(d) and (e) may in particular—
  - (a) confer a discretion on the registrar;
  - (b) provide for a question to be referred to a person other than the registrar for the purposes of determining the application or revoking the restrictions.
- (5) Regulations under this section are subject to affirmative resolution procedure.
- (6) Nothing in this section or in regulations made under it affects the use or disclosure of particulars of a person in any other capacity (for example, the use or disclosure of particulars of a person in that person's capacity as a member or director of the company)."

2 After Schedule 1 to that Act insert—

“SCHEDULE  
1A

Section 790C

REFERENCES TO PEOPLE WITH SIGNIFICANT CONTROL OVER A COMPANY

**PART 1**

THE SPECIFIED CONDITIONS

**Introduction**

- 1 This Part of this Schedule specifies the conditions at least one of which must be met by an individual (“X”) in relation to a company (“company Y”) in order for the individual to be a person with “significant control” over the company.

**Ownership of shares**

- 2 The first condition is that X holds, directly or indirectly, more than 25% of the shares in company Y.

**Ownership of voting rights**

- 3 The second condition is that X holds, directly or indirectly, more than 25% of the voting rights in company Y.

**Ownership of right to appoint or remove directors**

- 4 The third condition is that X holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of company Y.

**Significant influence or control**

- 5 The fourth condition is that X has the right to exercise, or actually exercises, significant influence or control over company Y.

**Trusts, partnerships etc**

- 6 The fifth condition is that—
- (a) the trustees of a trust or the members of a firm that, under the law by which it is governed, is not a legal person meet any of the other specified conditions (in their capacity as such) in relation to company Y, or would do so if they were individuals, and
  - (b) X has the right to exercise, or actually exercises, significant influence or control over the activities of that trust or firm.

**PART 2****HOLDING AN INTEREST IN A COMPANY ETC****Introduction**

- 7 This Part of this Schedule specifies the circumstances in which, for the purposes of section 790C(4) or (8)—
- (a) a person (“V”) is to be regarded as holding an interest in a company (“company W”);
  - (b) an interest held by V in company W is to be regarded as held through a legal entity.

**Holding an interest**

- 8 (1) V holds an interest in company W if—
- (a) V holds shares in company W, directly or indirectly,
  - (b) V holds, directly or indirectly, voting rights in company W,
  - (c) V holds, directly or indirectly, the right to appoint or remove any member of the board of directors of company W,
  - (d) V has the right to exercise, or actually exercises, significant influence or control over company W, or
  - (e) sub-paragraph (2) is satisfied.
- (2) This sub-paragraph is satisfied where—
- (a) the trustees of a trust or the members of a firm that, under the law by which it is governed, is not a legal person hold an interest in company W in a way mentioned in sub-paragraph (1)(a) to (d), and
  - (b) V has the right to exercise, or actually exercises, significant influence or control over the activities of that trust or firm.

**Interests held through a legal entity**

- 9 (1) This paragraph applies where V—
- (a) holds an interest in company W by virtue of indirectly holding shares or a right, and
  - (b) does so by virtue of having a majority stake (see paragraph 18) in—

- (i) a legal entity (“L”) which holds the shares or right directly, or
  - (ii) a legal entity that is part of a chain of legal entities such as is described in paragraph 18(1)(b) or (2)(b) that includes L.
- (2) Where this paragraph applies, V holds the interest in company W—
  - (a) through L, and
  - (b) through each other legal entity in the chain mentioned in subparagraph (1)(b)(ii).

### PART 3

#### SUPPLEMENTARY PROVISION

##### Introduction

- 10 This Part sets out rules for the interpretation of this Schedule.

##### Joint interests

- 11 If two or more persons each hold a share or right jointly, each of them is treated for the purposes of this Schedule as holding that share or right.

##### Joint arrangements

- 12 (1) If shares or rights held by a person and shares or rights held by another person are the subject of a joint arrangement between those persons, each of them is treated for the purposes of this Schedule as holding the combined shares or rights of both of them.
- (2) A “joint arrangement” is an arrangement between the holders of shares (or rights) that they will exercise all or substantially all the rights conferred by their respective shares (or rights) jointly in a way that is pre-determined by the arrangement.
- (3) “Arrangement” has the meaning given by paragraph 21.

##### Calculating shareholdings

- 13 (1) In relation to a legal entity that has a share capital, a reference to holding “more than 25% of the shares” in that entity is to holding shares comprised in the issued share capital of that entity of a nominal value exceeding (in aggregate) 25% of that share capital.
- (2) In relation to a legal entity that does not have a share capital—
  - (a) a reference to holding shares in that entity is to holding a right to share in the capital or, as the case may be, profits of that entity;
  - (b) a reference to holding “more than 25% of the shares” in that entity is to holding a right or rights to share in more than 25% of the capital or, as the case may be, profits of that entity.

**Voting rights**

- 14 (1) A reference to the voting rights in a legal entity is to the rights conferred on shareholders in respect of their shares (or, in the case of an entity not having a share capital, on members) to vote at general meetings of the entity on all or substantially all matters.
- (2) In relation to a legal entity that does not have general meetings at which matters are decided by the exercise of voting rights—
- (a) a reference to exercising voting rights in the entity is to be read as a reference to exercising rights in relation to the entity that are equivalent to those of a person entitled to exercise voting rights in a company;
  - (b) a reference to exercising more than 25% of the voting rights in the entity is to be read as a reference to exercising the right under the constitution of the entity to block changes to the overall policy of the entity or to the terms of its constitution.
- 15 In applying this Schedule, the voting rights in a legal entity are to be reduced by any rights held by the entity itself.

**Rights to appoint or remove members of the board**

- 16 A reference to the right to appoint or remove a majority of the board of directors of a legal entity is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all or substantially all matters.
- 17 References to a board of directors, in the case of an entity that does not have such a board, are to be read as references to the equivalent management body of that entity.

**Shares or rights held “indirectly”**

- 18 (1) A person holds a share “indirectly” if the person has a majority stake in a legal entity and that entity—
- (a) holds the share in question, or
  - (b) is part of a chain of legal entities—
    - (i) each of which (other than the last) has a majority stake in the entity immediately below it in the chain, and
    - (ii) the last of which holds the share.
- (2) A person holds a right “indirectly” if the person has a majority stake in a legal entity and that entity—
- (a) holds that right, or
  - (b) is part of a chain of legal entities—
    - (i) each of which (other than the last) has a majority stake in the entity immediately below it in the chain, and
    - (ii) the last of which holds that right.
- (3) For these purposes, A has a “majority stake” in B if—
- (a) A holds a majority of the voting rights in B,



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- (b) A is a member of B and has the right to appoint or remove a majority of the board of directors of B,
  - (c) A is a member of B and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in B, or
  - (d) A has the right to exercise, or actually exercises, dominant influence or control over B.
- (4) In the application of this paragraph to the right to appoint or remove a majority of the board of directors, a legal entity is to be treated as having the right to appoint a director if—
- (a) a person’s appointment as director follows necessarily from that person’s appointment as director of the legal entity, or
  - (b) the directorship is held by the legal entity itself.

#### **Shares held by nominees**

- 19 A share held by a person as nominee for another is to be treated for the purposes of this Schedule as held by the other (and not by the nominee).

#### **Rights treated as held by person who controls their exercise**

- 20 (1) Where a person controls a right, the right is to be treated for the purposes of this Schedule as held by that person (and not by the person who in fact holds the right, unless that person also controls it).
- (2) A person “controls” a right if, by virtue of any arrangement between that person and others, the right is exercisable only—
- (a) by that person,
  - (b) in accordance with that person’s directions or instructions, or
  - (c) with that person’s consent or concurrence.
- 21 (1) “Arrangement” includes—
- (a) any scheme, agreement or understanding, whether or not it is legally enforceable, and
  - (b) any convention, custom or practice of any kind.
- (2) But something does not count as an arrangement unless there is at least some degree of stability about it (whether by its nature or terms, the time it has been in existence or otherwise).

#### **Rights exercisable only in certain circumstances etc**

- 22 (1) Rights that are exercisable only in certain circumstances are to be taken into account only—
- (a) when the circumstances have arisen, and for so long as they continue to obtain, or
  - (b) when the circumstances are within the control of the person having the rights.
- (2) But rights that are exercisable by an administrator or by creditors while a legal entity is in relevant insolvency proceedings are not to be taken into account even while the entity is in those proceedings.

- (3) “Relevant insolvency proceedings” means—
- (a) administration within the meaning of the Insolvency Act 1986,
  - (b) administration within the meaning of the Insolvency (Northern Ireland) Order 1989 ([S.I. 1989/2405 \(N.I. 19\)](#)), or
  - (c) proceedings under the insolvency law of another country or territory during which an entity’s assets and affairs are subject to the control or supervision of a third party or creditor.
- (4) Rights that are normally exercisable but are temporarily incapable of exercise are to continue to be taken into account.

### **Rights attached to shares held by way of security**

- 23 Rights attached to shares held by way of security provided by a person are to be treated for the purposes of this Schedule as held by that person—
- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person’s instructions, and
  - (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in that person’s interests.

### **Significant influence or control**

- 24
- (1) The Secretary of State must issue guidance about the meaning of “significant influence or control” for the purposes of this Schedule.
  - (2) Regard must be had to that guidance in interpreting references in this Schedule to “significant influence or control”.
  - (3) Before issuing guidance under this paragraph the Secretary of State must lay a draft of it before Parliament.
  - (4) If, within the 40-day period, either House of Parliament resolves not to approve the draft guidance, the Secretary of State must take no further steps in relation to it.
  - (5) If no such resolution is made within that period, the Secretary of State must issue and publish the guidance in the form of the draft.
  - (6) Sub-paragraph (4) does not prevent a new draft of proposed guidance from being laid before Parliament.
  - (7) In this section “the 40-day period”, in relation to draft guidance, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House on the same day, the later of the days on which it is laid).
  - (8) In calculating the 40-day period, no account is to be taken of any period during which—
    - (a) Parliament is dissolved or prorogued, or

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- (b) both Houses are adjourned for more than 4 days.
- (9) The Secretary of State may revise guidance issued under this paragraph, and a reference in this paragraph to guidance includes a reference to revised guidance.

### **Limited partnerships**

- 25 (1) An individual does not meet the specified condition in paragraph 2, 3 or 4 in relation to a company by virtue only of being a limited partner.
- (2) An individual does not meet the specified condition in paragraph 2, 3 or 4 in relation to a company by virtue only of, directly or indirectly—
  - (a) holding shares, or
  - (b) holding a right,in or in relation to a limited partner which (in its capacity as such) would meet the condition if it were an individual.
- (3) Sub-paragraphs (1) and (2) do not apply for the purposes of determining whether the requirement set out in paragraph (a) of the specified condition in paragraph 6 is met.
- (4) In this paragraph “limited partner” means—
  - (a) a limited partner in a limited partnership registered under the Limited Partnerships Act 1907 (other than one who takes part in the management of the partnership business), or
  - (b) a foreign limited partner.
- (5) In this paragraph “foreign limited partner” means an individual who—
  - (a) participates in arrangements established under the law of a country or territory outside the United Kingdom, and
  - (b) has the characteristics prescribed by regulations made by the Secretary of State.
- (6) Regulations under this paragraph may, in particular, prescribe characteristics by reference to—
  - (a) the nature of arrangements;
  - (b) the nature of an individual’s participation in the arrangements.
- (7) Regulations under this paragraph are subject to affirmative resolution procedure.

## **PART 4**

### **POWER TO AMEND THRESHOLDS ETC**

- 26 (1) The Secretary of State may by regulations amend this Schedule for a permitted purpose.
- (2) The permitted purposes are—
  - (a) to replace any or all references in this Schedule to a percentage figure with references to some other (larger or smaller) percentage figure;

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- (b) to change or supplement the specified conditions in Part 1 of this Schedule so as to include circumstances (for example, circumstances involving more complex structures) that give individuals a level of control over company Y broadly similar to the level of control given by the other specified conditions;
  - (c) in consequence of any provision made by virtue of paragraph (b), to change or supplement Part 2 of this Schedule so that circumstances specified in that Part in which a person is to be regarded as holding an interest in a company correspond to any of the specified conditions, or would do so but for the extent of the interest.
- (3) Regulations under this paragraph are subject to affirmative resolution procedure.

## SCHEDULE 1B

Section 790I

### ENFORCEMENT OF DISCLOSURE REQUIREMENTS

#### Right to issue restrictions notice

- 1 (1) This paragraph applies if—
  - (a) a notice under section 790D or 790E is served by a company on a person who has a relevant interest in the company, and
  - (b) the person fails to comply with that notice within the time specified in it.
- (2) The company may give the person a notice under this paragraph (a “warning notice”) informing the person that it is proposing to issue the person with a notice (a “restrictions notice”) with respect to the relevant interest.
- (3) The company may issue the restrictions notice if, by the end of the period of one month beginning with the date on which the warning notice was given—
  - (a) the person has not complied with the notice served under section 790D or 790E, and
  - (b) the company has not been provided with a valid reason sufficient to justify the person’s failure to comply with the notice served under that section.
- (4) A restrictions notice is issued on a person by sending the notice to the person.
- (5) The effect of a restrictions notice is set out in paragraph 3.
- (6) In deciding whether to issue a restrictions notice, the company must have regard to the effect of the notice on the rights of third parties in respect of the relevant interest.

### **Relevant interests**

- 2 (1) For the purposes of this Schedule, a person has a relevant interest in a company if the person—
- (a) holds any shares in the company,
  - (b) holds any voting rights in the company, or
  - (c) holds the right to appoint or remove any member of the board of directors of the company.
- (2) References to “the relevant interest” are to the shares or right in question.
- (3) Part 3 of Schedule 1A applies for the interpretation of sub-paragraph (1) save that, where the relevant interest is by virtue of paragraph 19 or 20 of that Schedule treated for the purposes of that Schedule as held by a person other than the person who in fact holds the interest, both the holder and the other person are to be regarded for the purposes of this Schedule as having the relevant interest.

### **Effect of restrictions notice**

- 3 (1) The effect of a restrictions notice issued under paragraph 1 with respect to a relevant interest is as follows—
- (a) any transfer of the interest is void,
  - (b) no rights are exercisable in respect of the interest,
  - (c) no shares may be issued in right of the interest or in pursuance of an offer made to the interest-holder,
  - (d) except in a liquidation, no payment may be made of sums due from the company in respect of the interest, whether in respect of capital or otherwise.
- (2) An agreement to transfer an interest that is subject to the restriction in sub-paragraph (1)(a) is void.
- (3) Sub-paragraph (2) does not apply to an agreement to transfer the interest on the making of an order under paragraph 8 made by virtue of sub-paragraph (3)(b) of that paragraph (removal of restrictions in case of court-approved transfer).
- (4) An agreement to transfer any associated right (otherwise than in a liquidation) is void.
- (5) Sub-paragraph (4) does not apply to an agreement to transfer any such right on the making of an order under paragraph 8 made by virtue of sub-paragraph (3)(b) of that paragraph (removal of restrictions in case of court-approved transfer).
- (6) An “associated right”, in relation to a relevant interest, is—
- (a) a right to be issued with any shares issued in right of the relevant interest, or
  - (b) a right to receive payment of any sums due from the company in respect of the relevant interest.

- (7) The provisions of this section are subject to any directions given under paragraph 4.

### **Protection of third party rights**

- 4 (1) The court may give a direction under this paragraph if, on application by any person aggrieved, the court is satisfied that a restrictions notice issued by the company under paragraph 1 unfairly affects the rights of third parties in respect of the relevant interest.
- (2) The direction is given for the purpose of protecting those third party rights.
- (3) The direction is a direction that certain acts will not constitute a breach of the restrictions placed on the relevant interest by the restrictions notice.
- (4) An order containing a direction under this paragraph—
- (a) must specify the acts that will not constitute a breach of the restrictions, and
  - (b) may confine the direction to cases where those acts are done by persons, or for purposes, described in the order.
- (5) The direction may be given subject to such terms as the court thinks fit.

### **Breach of restrictions**

- 5 (1) A person commits an offence if the person does anything listed in subparagraph (2) knowing that the interest is subject to restrictions.
- (2) The things are—
- (a) exercising or purporting to exercise any right to dispose of a relevant interest,
  - (b) exercising or purporting to exercise any right to dispose of any right to be issued with a relevant interest, or
  - (c) voting in respect of a relevant interest (whether as holder of the interest or as proxy) or appointing a proxy to vote in respect of a relevant interest.
- (3) A person who has a relevant interest that the person knows to be subject to restrictions commits an offence if the person—
- (a) knows a person to be entitled (apart from the restrictions) to vote in respect of the interest, whether as holder or as proxy,
  - (b) does not know the person to be aware of the fact that the interest is subject to restrictions, and
  - (c) fails to notify the person of that fact.
- (4) A person commits an offence if the person—
- (a) either has a relevant interest that the person knows to be subject to restrictions or is entitled to an associated right, and
  - (b) enters in that capacity into an agreement that is void by virtue of paragraph 3(2) or (4).

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

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- (5) References in this Schedule to an interest being “subject to restrictions” are to an interest being subject to restrictions by virtue of a restrictions notice under paragraph 1.
- 6 If shares in a company are issued in contravention of a restriction imposed by virtue of a restrictions notice under paragraph 1, an offence is committed by—
- (a) the company, and
  - (b) every officer of the company who is in default.
- 7 (1) A person guilty of an offence under paragraph 5 or 6 is liable—
- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction—
    - (i) in England and Wales, to a fine,
    - (ii) in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum.
- (2) The provisions of those paragraphs are subject to any direction given under paragraph 4 or 8.

### **Relaxation of restrictions**

- 8 (1) An application may be made to the court for an order directing that the relevant interest cease to be subject to restrictions.
- (2) An application for an order under this paragraph may be made by the company in question or by any person aggrieved.
- (3) The court must not make an order under this paragraph unless—
- (a) it is satisfied that the information required by the notice served under section 790D or 790E has been disclosed to the company and no unfair advantage has accrued to any person as a result of the earlier failure to make that disclosure, or
  - (b) the relevant interest is to be transferred for valuable consideration and the court approves the transfer.
- (4) An order under this paragraph made by virtue of sub-paragraph (3) (b) may continue, in whole or in part, the restrictions mentioned in paragraph 3(1)(c) and (d) so far as they relate to a right acquired or offer made before the transfer.
- (5) Where any restrictions continue in force under sub-paragraph (4)—
- (a) an application may be made under this paragraph for an order directing that the relevant interest cease to be subject to those restrictions, and
  - (b) sub-paragraph (3) does not apply in relation to the making of such an order.

### **Orders for sale**

- 9 (1) The court may order that the relevant interest subject to restrictions be sold subject to the court’s approval as to the sale.

- (2) An application for an order under sub-paragraph (1) may only be made by the company in question.
  - (3) If the court makes an order under this paragraph, it may make such further order relating to the sale or transfer of the interest as it thinks fit.
  - (4) An application for an order under sub-paragraph (3) may be made—
    - (a) by the company in question,
    - (b) by the person appointed by or in pursuance of the order to effect the sale, or
    - (c) by any person with an interest in the relevant interest.
  - (5) On making an order under sub-paragraph (1) or (3), the court may order that the applicant's costs (in Scotland, expenses) be paid out of the proceeds of sale.
- 10
- (1) If a relevant interest is sold in pursuance of an order under paragraph 9, the proceeds of the sale, less the costs of the sale, must be paid into court for the benefit of those who are beneficially interested in the relevant interest.
  - (2) A person who is beneficially interested in the relevant interest may apply to the court for the whole or part of those proceeds to be paid to that person.
  - (3) On such an application, the court must order the payment to the applicant of—
    - (a) the whole of the proceeds of sale together with any interest on the proceeds, or
    - (b) if another person was also beneficially interested in the relevant interest at the time of the sale, such proportion of the proceeds (and any interest) as the value of the applicant's interest bears to the total value of the relevant interest.
  - (4) If the court has ordered under paragraph 9 that the costs (in Scotland, expenses) of an applicant under that paragraph are to be paid out of the proceeds of sale, the applicant is entitled to payment of those costs (or expenses) out of the proceeds before any person receives any part of the proceeds under this paragraph.

### **Company's power to withdraw restrictions notice**

- 11 A company that issues a person with a restrictions notice under paragraph 1 must by notice withdraw the restrictions notice if—
- (a) it is satisfied that there is a valid reason sufficient to justify the person's failure to comply with the notice served under section 790D or 790E,
  - (b) the notice served under section 790D or 790E is complied with, or
  - (c) it discovers that the rights of a third party in respect of the relevant interest are being unfairly affected by the restrictions notice.



### **Supplementary provision**

- 12 (1) The Secretary of State may by regulations make provision about the procedure to be followed by companies in issuing and withdrawing restrictions notices.
- (2) The regulations may in particular make provision about—
- (a) the form and content of warning notices and restrictions notices, and the manner in which they must be given,
  - (b) the factors to be taken into account in deciding what counts as a “valid reason” sufficient to justify a person’s failure to comply with a notice under section 790D or 790E, and
  - (c) the effect of withdrawing a restrictions notice on matters that are pending with respect to the relevant interest when the notice is withdrawn.
- (3) Regulations under this paragraph are subject to negative resolution procedure.

### **Offences for failing to comply with notices**

- 13 (1) A person to whom a notice under section 790D or 790E is addressed commits an offence if the person—
- (a) fails to comply with the notice, or
  - (b) in purported compliance with the notice—
    - (i) makes a statement that the person knows to be false in a material particular, or
    - (ii) recklessly makes a statement that is false in a material particular.
- (2) Where the person is a legal entity, an offence is also committed by every officer of the entity who is in default.
- (3) A person does not commit an offence under sub-paragraph (1)(a) (or sub-paragraph (2) as it applies in relation to that sub-paragraph) if the person proves that the requirement to give information was frivolous or vexatious.
- (4) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine (or both);
    - (ii) in Scotland, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);
    - (iii) in Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum (or both).

**Offences for failing to provide information**

- 14 (1) A person commits an offence if the person—
- (a) fails to comply with a duty under section 790G or 790H, or
  - (b) in purported compliance with such a duty—
    - (i) makes a statement that the person knows to be false in a material particular, or
    - (ii) recklessly makes a statement that is false in a material particular.
- (2) Where the person is a legal entity, an offence is also committed by every officer of the entity who is in default.
- (3) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine (or both);
    - (ii) in Scotland, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);
    - (iii) in Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum (or both)."

**PART 2****RELATED AMENDMENTS**

- 3 The Companies Act 2006 is amended as follows.
- 4 In section 9 (registration documents), in subsection (4), at the end of paragraph (c) insert “;
- (d) a statement of initial significant control (see section 12A).”
- 5 After section 12 insert—

**“12A Statement of initial significant control**

- (1) The statement of initial significant control required to be delivered to the registrar must—
- (a) state whether, on incorporation, there will be anyone who will count for the purposes of section 790M (register of people with significant control over a company) as either a registrable person or a registrable relevant legal entity in relation to the company,
  - (b) include the required particulars of anyone who will count as such, and
  - (c) include any other matters that on incorporation will be required (or, in the absence of an election under section 790X, would be

required) to be entered in the company's PSC register by virtue of section 790M.

- (2) It is not necessary to include under subsection (1)(b) the date on which someone becomes a registrable person or a registrable relevant legal entity in relation to the company.
- (3) If the statement includes required particulars of an individual, it must also contain a statement that those particulars are included with the knowledge of that individual.
- (4) "Registrable person", "registrable relevant legal entity" and "required particulars" have the meanings given in Part 21A (see sections 790C and 790K)."

6 In section 120 (information as to state of register and index), in subsection (1), for "there were no" substitute "whether there are".

7 In section 1068 (registrar's requirements as to form, authentication and manner of delivery), in subsection (6A) (inserted by Schedule 5 to this Act), after "central register)" insert "or Chapter 4 of Part 21A (option to keep PSC information on central register)".

8 In section 1087 (material not available for public inspection), in subsection (1), after paragraph (ba) insert—

“(bb) information to which sections 240 to 244 are applied by section 790ZF(1) (residential addresses of people with significant control over the company) or any corresponding provision of regulations under section 1046 (overseas companies);

(bc) information that, by virtue of regulations under section 790ZG or any corresponding provision of regulations under section 1046, the registrar must omit from the material on the register that is available for inspection;”.

9 (1) Section 1126 (consents required for certain prosecutions) is amended as follows.

(2) In subsection (1), at the end insert—

“section 1112 of this Act (general false statement offence);  
paragraph 5 or 6 of Schedule 1B to this Act (breach of certain restrictions imposed under that Schedule)”.

(3) In subsection (2)(a)—

- (a) omit the “or” at the end of sub-paragraph (ii), and
- (b) after sub-paragraph (iii) insert “or  
(iv) section 1112 of this Act,”.

(4) In subsection (2)(b), after “section 798 of” insert “, or paragraph 5 or 6 of Schedule 1B to,”.

(5) In subsection (3)(a)—

- (a) omit the “or” at the end of sub-paragraph (ii), and
- (b) after sub-paragraph (iii) insert “or  
(iv) section 1112 of this Act,”.

(6) In subsection (3)(b), after “section 798 of” insert “, or paragraph 5 or 6 of Schedule 1B to,”.

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In section 1136 (regulations about where certain company records to be kept available for inspection), in subsection (2), after the entry for section 743 insert—  
“section 790M (register of people with significant control over a company);  
section 790Z (historic PSC register);”.
- 11

In Schedule 8 (index of defined expressions), in the appropriate places insert—  

“legal entity (in Part 21A)	section 790C(5)”,
“PSC register	section 790C(10)”,
“registrable person (in Part 21A)	section 790C(4)”,
“registrable relevant legal entity (in Part 21A)	section 790C(8)”,
“relevant legal entity (in Part 21A)	section 790C(6)”,
“significant control (in Part 21A)	section 790C(2)”.