

2006 No. 3429

COMPANIES

**The Companies (Registrar, Languages and Trading Disclosures)
Regulations 2006**

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| <i>Made</i> - - - - | <i>20th December 2006</i> |
| <i>Laid before Parliament</i> | <i>21st December 2006</i> |
| <i>Coming into force</i> - - | <i>1st January 2007</i> |

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to disclosure requirements in respect of companies, registration and publication of documents and particulars disclosed and languages in which disclosures are authorised or required to be made.

In exercise of the powers conferred by section 2(2) of that Act, by sections 1091(4), 1105(2)(d) and 1106(2) of the Companies Act 2006(c) and by sections 15 and 17 of the Limited Liability Partnerships Act 2000(d), the Secretary of State makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Companies (Registrar, Languages and Trading Disclosures) Regulations 2006 and shall come into force on 1st January 2007.

(2) In these Regulations—

“the 1985 Act” means the Companies Act 1985(e),

“the 1986 Order” means the Companies (Northern Ireland) Order 1986(f), and

“the 2006 Act” means the Companies Act 2006.

Certification of electronic copies by registrar

2.—(1) Where—

(a) a person requires a copy of material on the register under section 1086 of the 2006 Act,

(b) that person expressly requests that the copy be certified as a true copy, and

(c) the registrar provides the copy in electronic form,

the registrar’s certificate that the copy is an accurate record of the contents of the original document must be provided in accordance with the following provisions.

(a) S.I. 2006/1461.

(b) 1972 c.68.

(c) 2006 c.46

(d) 2000 c.12

(e) 1985 c.6

(f) S.I. 1986/1032 (N.I. 6)

- (2) The certificate must be authenticated by means of an electronic signature that—
- (a) is uniquely linked to the registrar,
 - (b) indicates that the registrar has caused it to be applied,
 - (c) is created using means that the registrar can maintain under his sole control, and
 - (d) is linked—
 - (i) to the certificate, and
 - (ii) to the copy provided under section 1086 of the 2006 Act
- in such a manner that any subsequent change of the data comprised in either is detectable.

(3) For the purposes of this regulation, an “electronic signature” means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication.

Provisions requiring office copies to be delivered to the registrar

3.—(1) In the following provisions (which require an office copy of certain orders to be delivered to the registrar) for “an office copy” substitute “a copy”—

- (a) section 54(7) of the 1985 Act and article 64(7) of the 1986 Order (order on litigated objection to resolution that public company be re-registered as private),
- (b) section 425(3) of the 1985 Act^(a) and article 418(3) of the 1986 Order^(b) (order sanctioning compromise or arrangement),
- (c) section 427(5) of the 1985 Act^(c) and article 420(5) of the 1986 Order^(d) (order sanctioning compromise or arrangement),
- (d) section 201(4) of the Insolvency Act 1986^(e) and article 166(4) of the Insolvency (Northern Ireland) Order 1989^(f) (order deferring date at which dissolution of company after winding up is to take effect).

(2) In—

- (a) Form 139, in Schedule 3 to the Companies (Forms) Regulations 1985^(g) and
- (b) Form 149, in Schedule 3 to the Companies (Forms) Regulations (Northern Ireland) 1986^(h),

for “Office copy” substitute “Copy”.

(3) For the purposes of their application to limited liability partnerships by the Limited Liability Partnerships Regulations 2001⁽ⁱ⁾ or the Limited Liability Partnerships Regulations (Northern Ireland) 2004^(j), the provisions specified in paragraph (1)(b), (c) and (d) have effect as if not amended by this regulation.

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- (a) Section 425(3) is applied to limited liability partnerships by the Limited Liability Partnerships Regulations 2001 (S.I. 2001/1090), regulation 4 and Schedule 2, Part 1.
 - (b) Article 418(3) is applied to limited liability partnerships by the Limited Liability Partnerships Regulations (Northern Ireland) 2004 (S.R. (NI) 2004 No 307), regulation 4 and Schedule 2, Part 1.
 - (c) Section 427(5) is applied to limited liability partnerships by the Limited Liability Partnerships Regulations 2001 (S.I. 2001/1090), regulation 4 and Schedule 2, Part 1.
 - (d) Article 420(5) is applied to limited liability partnerships by the Limited Liability Partnerships Regulations (Northern Ireland) 2004 (S.R. (NI) 2004 No 307), regulation 4 and Schedule 2, Part 1.
 - (e) 1986 c.45; section 201(4) is applied to limited liability partnerships by the Limited Liability Partnerships Regulations 2001 (S.I. 2001/1090), regulation 5.
 - (f) S.I. 1989/2405 (N.I. 19); article 166(4) is applied to limited liability partnerships by the Limited Liability Partnerships Regulations (Northern Ireland) 2004 (S.R. (NI) 2004 No 307), regulation 5.
 - (g) S.I. 1985/854
 - (h) S.R. (NI) 1986 No 287
 - (i) S.I. 2001/1090
 - (j) S.R. (NI) 2004 No 307

Language requirements: contracts relating to allotments of shares

4. Section 1105 of the 2006 Act (documents that may be drawn up and delivered in languages other than English) applies to contracts required to be delivered to the registrar under section 88(2)(b)(i) of the 1985 Act or article 98(2)(b)(i) of the 1986 Order.

Voluntary filing of translations

5. The facility described in section 1106 of the 2006 Act (voluntary filing of translations) is available in relation to—

- (a) all the official languages of the European Union, and
- (b) all documents subject to the Directive disclosure requirements.

Trading disclosures: amendment of companies legislation

- 6.—(1) The 1985 Act is amended as set out in Schedule 1.
- (2) The 1986 Order is amended as set out in Schedule 2.

Trading disclosures: statement that company is being wound up

7.—(1) For section 188(1)(a) of the Insolvency Act 1986 substitute—

“(1) When a company is being wound up, whether by the court or voluntarily—

- (a) every invoice, order for goods, business letter or order form (whether in hard copy, electronic or any other form) issued by or on behalf of the company, or a liquidator of the company or a receiver or manager of the company’s property, being a document on or in which the name of the company appears, and
- (b) all the company’s websites,

must contain a statement that the company is being wound up.”.

(2) For article 159(1)(b) of the Insolvency (Northern Ireland) Order 1989 substitute—

“(1) When a company is being wound up, whether by the High Court or voluntarily—

- (a) every invoice, order for goods, business letter or order form (whether in hard copy, electronic or any other form) issued by or on behalf of the company, or a liquidator of the company or a receiver or manager of the company’s property, being a document on or in which the name of the company appears, and
- (b) all the company’s websites,

must contain a statement that the company is being wound up.”.

20th December 2006

Margaret Hodge
Minister for Industry and the Regions
Department of Trade and Industry

(a) Section 188 is applied to limited liability partnerships by the Limited Liability Partnerships Regulations 2001 (S.I. 2001/1090), regulation 5 and the Limited Liability Partnerships (Scotland) Regulations 2001 (S.I. 2001/128), regulation 3 and Schedule 1.

(b) Article 159 is applied to limited liability partnerships by the Limited Liability Partnerships Regulations (Northern Ireland) 2004 (S.R. (NI) 2004 No 307), regulation 5.

TRADING DISCLOSURES: AMENDMENT OF 1985 ACT

1.—(1) Section 349(a) of the 1985 Act (company’s name to appear in its correspondence etc) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a), after “business letters” insert “and order forms”;
- (b) after paragraph (b) insert—
 - “(ba) on all its websites.”.

(3) In subsection (3)—

- (a) in paragraph (a), after “business letter” insert “or order form”;
- (b) omit the “or” at the end of that paragraph;
- (c) after that paragraph insert—
 - “(aa) causes or authorises the appearance of a website of the company on which the company’s name is not so mentioned, or”.

(4) After subsection (4) insert—

“(5) References in this section to a document of any type are to a document of that type in hard copy, electronic or any other form.”.

2.—(1) Section 351(b) of the 1985 Act (particulars in correspondence etc) is amended as follows.

(2) In subsection (1), after “order forms of the company” insert “, and on all the company’s websites,”.

(3) For subsection (2) substitute—

“(2) If in the case of a company having a share capital there is a reference to the amount of share capital—

- (a) on the stationery used for any such letters,
- (b) on the company’s order forms, or
- (c) on any of the company’s websites,

the reference must be to paid-up share capital.”.

(4) In subsection (5), after paragraph (b) insert—

“(ba) if an officer of a company or a person on its behalf causes or authorises the appearance of a website not complying with those subsections, he is liable to a fine.”.

(5) After that subsection insert—

“(6) References in this section to a document of any type are to a document of that type in hard copy, electronic or any other form.”.

3. In section 705(4)(a) of the 1985 Act (change of company’s registered number: use of old number on business letters etc), for “business letters and order forms” substitute “business letters, order forms and websites”.

(a) Section 349 is applied to limited liability partnerships by the Limited Liability Partnerships Regulations 2001 (S.I. 2001/1090), regulation 4 and Schedule 2, Part 1.

(b) Section 351(1) was amended by the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27), Schedule 6, paragraph 8; the whole of section 351 is applied to limited liability partnerships by the Limited Liability Partnerships Regulations 2001 (S.I. 2001/1090), regulation 4 and Schedule 2, Part 1.

4. In Schedule 24 to the 1985 Act (punishment of offences)—

- (a) in the entry relating to section 349(3), after “company’s name” insert “or causing appearance of website in which company’s name not mentioned”,
- (b) after the entry relating to section 351(5)(b) insert—

| | | | |
|-------------|--|---------|--------------------------------|
| “351(5)(ba) | Officer or agent of company causing appearance of website not complying with section 351(1) or (2) | Summary | Level 3 on the standard scale” |
|-------------|--|---------|--------------------------------|

(a) Section 705 was substituted by the Companies Act 1989 (c. 40), Schedule 19, paragraph 14.

SCHEDULE 2

Regulation 6

TRADING DISCLOSURES: AMENDMENT OF 1986 ORDER

1.—(1) Article 357(a) of the 1986 Order (company’s name to appear in its correspondence etc) is amended as follows.

(2) In paragraph (1) —

(a) in sub-paragraph (a), after “business letters” insert “and order forms”;

(b) after sub-paragraph (b) insert—

“(bb) on all its websites.”.

(3) In paragraph(3) —

(a) in sub-paragraph (a), after “business letter” insert “or order form”;

(b) omit the “or” at the end of that sub-paragraph;

(c) after that sub-paragraph insert—

“(aa) causes or authorises the appearance of a website on which the company’s name is not so mentioned, or”.

(4) After paragraph (4) insert—

“(5) References in this Article to a document of any type are to a document of that type in hard copy, electronic or any other form.”.

2.—(1) Article 359(b) of the 1986 Order (particulars in correspondence etc) is amended as follows.

(2) In paragraph (1), after “order forms of the company” insert “, and on all the company’s websites,”.

(3) For paragraph (2) substitute—

“(2) If in the case of a company having a share capital there is a reference to the amount of share capital—

(a) on the stationery used for any such letters,

(b) on the company’s order forms, or

(c) on any of the company’s websites,

the reference must be to paid-up share capital.”.

(4) In paragraph (5), after sub-paragraph (b) insert—

“(ba) if an officer of a company or a person on its behalf causes or authorises the appearance of a website not complying with those paragraphs, he is liable to a fine.”.

(5) After that paragraph insert—

“(6) References in this Article to a document of any type are to a document of that type in hard copy, electronic or any other form.”.

3. In article 654(4)(a) of the 1986 Order (change of company’s registered number: use of old number on business letters etc), for “business letters and order forms” substitute “business letters, order forms and websites”.

(a) Article 357 is applied to limited liability partnerships by the Limited Liability Partnerships Regulations (Northern Ireland) 2004 (S.R. (NI) 2004 No 307), regulation 4 and Schedule 2, Part 1.

(b) Article 359 is applied to limited liability partnerships by the Limited Liability Partnerships Regulations (Northern Ireland) 2004 (S.R. (NI) 2004 No 307), regulation 4 and Schedule 2, Part 1.

4. In Schedule 23 to the 1986 Order—

- (a) in the entry relating to article 357(3), after “company’s name” insert “or causing appearance of website in which company’s name not mentioned”,
- (b) after the entry relating to article 359(3)(b) insert—

| | | | |
|-------------|--|---------|--------------------------------|
| “359(3)(ba) | Officer or agent of company causing appearance of website not complying with article 359(1) or (2) | Summary | Level 3 on the standard scale” |
|-------------|--|---------|--------------------------------|

(a) Article 654 was substituted by the Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10)), Schedule 5, paragraph 13.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement provisions of Directive 2003/58/EC of the European Parliament and the Council of 15 July 2003 amending Council Directive 68/151/EEC, as regards disclosure requirements in respect of certain types of companies (O.J. L221, 4.9.2003, p. 13) They do so by amending the Companies Act 1985 and the Companies (Northern Ireland) Order 1986 so far as not yet repealed by the Companies Act 2006, and by supplementing provisions of the Companies Act 2006 brought into force on the same date as these Regulations.

Regulation 2 applies when the registrar of companies provides a copy in electronic form of material on the register to a person requesting that the copy be certified as a true copy. The registrar's certificate must be certified by an electronic signature which is uniquely linked to the registrar by means under his sole control and which is linked to the certificate and the copy in such a way that subsequent changes are detectable.

Regulation 3 amends the 1985 Act and the 1986 Order (except in respect of limited liability partnerships) by no longer requiring copies of certain documents delivered to the registrar to be office copies (ie, hard copies).

The effect of regulation 4 is that when a contract for the allotment of shares paid up other than in cash is delivered to the registrar, it need not be in English but must be accompanied by a certified translation into English.

Regulation 5 enables companies to deliver to the registrar any of the documents to which Council Directive 68/151/EEC (O.J. L65, 14.3.1968, p.8) applies (listed in section 1078 of the 2006 Act) in any of the official languages of the European Union if accompanied by a certified translation into English.

Regulations 6 and 7 and Schedules 1 and 2 amend the 1985 Act, the 1986 Order, the Insolvency Act 1986 and the Insolvency (Northern Ireland) Order 1989 so as to include websites and documents in electronic form in provisions requiring the company's name, registered number, registered office and other particulars, and the fact that the company is being wound up (where that is so), to appear on correspondence, publications and other documents.

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