
STATUTORY INSTRUMENTS

2007 No. 3426

The Scientific Research Organisations Regulations 2007

PART 3

Research and development capable of extending trade

Undertaking of research and development leading to or facilitating an extension of a class of trade

12. In relation to an accounting period, the undertaking of research and development is deemed to be capable of leading to or facilitating an extension of a class of trade if—

- (a) the research and development is undertaken in accordance with regulation 13;
- (b) the results of any research and development are or will be disseminated in accordance with regulation 14; and
- (c) the intellectual property requirements in regulation 16 are satisfied.

Manner of undertaking research and development

13. Research and development is undertaken in accordance with this regulation if—

- (a) the Association directly undertakes by using its own facilities activities that are treated as research and development;
- (b) a person under the terms of a contract with the Association undertakes on behalf of the Association activities that are treated as research and development; or
- (c) a 100% subsidiary company of the Association undertakes on behalf of the Association activities that are treated as research and development.

Arrangements for disseminating the results of research and development

14.—(1) For the purposes of regulation 12, the Association must disseminate the results of any research and development in accordance with the arrangements referred to in paragraph (2).

(2) The arrangements for the dissemination of the results of any research and development must be made, on or before the last day of the accounting period, and must ensure that the results of any research and development undertaken in the accounting period are to be—

- (a) made available upon request and without charge, subject to paragraph (3);
- (b) made available, subject to paragraph (4)—
 - (i) to all the members and shareholders of, and all the subscribers to, the Association who undertake the class of trade that may be facilitated or extended by the research and development; or
 - (ii) to all the members and shareholders of, and all the subscribers to, the Association; or
 - (iii) generally to the public; and

(c) made available not later than one year after the completion of the research and development.

(3) Paragraph (2)(a) does not prevent an Association from recovering from a recipient of the results of any research and development the reasonable costs of publishing or distributing the results to the recipient.

(4) Where any member or shareholder of, or subscriber to, the Association is connected with the Association paragraph (2)(b) does not apply and instead the arrangements must ensure that the results of any research and development undertaken in the accounting period are made available—

- (a) generally to the public, or
- (b) to any person who undertakes the class of trade that may be facilitated or extended by the research and development whether or not the person is or is not a member or shareholder of, or subscriber to, the Association.

Section 839 (connected persons)(1) shall apply for the purpose of determining whether a member, shareholder or subscriber is connected with the Association.

Breach of arrangements for disseminating the results of research and development

15.—(1) This regulation applies where—

- (a) the arrangements referred to in paragraph (2) of regulation 14 are altered or replaced after the end of an accounting period in respect of which a claim under section 508 is made with the effect that the requirements of that paragraph cease to met in relation to research and development undertaken in that accounting period; or
- (b) any results of any research and development undertaken in an accounting period in respect of which a claim under section 508 is made are disseminated other than in accordance with the arrangements referred to in that paragraph.

(2) Where this regulation applies the Association shall be deemed not to have satisfied the condition in section 508(1)(a) in relation to the accounting period in which the alteration or replacement occurs or in which the dissemination occurs.

Intellectual property requirements

16. For the purposes of regulation 12, the intellectual property requirements are that any intellectual property from any research and development undertaken by or on behalf of an Association in an accounting period—

- (a) must be solely and beneficially owned by the Association for a period of not less than one year from the date on which the accounting period ends;
- (b) in a case where the intellectual property is sold, transferred, assigned, licensed or otherwise made available by an Association to any person—
 - (i) in the accounting period, or
 - (ii) in the period that ends one year from the date on which the accounting period ends, the intellectual property must also be made available by the Association to all the members and shareholders of, and all the subscribers to, the Association; or
- (c) in a case where the funding of the research and development is—
 - (i) shared by the Association and another person or body (“shared funding”), and

(1) Section 839 was amended by section 74 of, and paragraph 20 of Schedule 17 to, the Finance Act 1995 (c. 4); regulations 47 and 100 of SI 2005/3229; paragraphs 7 and 25 of Schedule 13 to the Finance Act 2006 (c. 25) and paragraphs 1 and 223 of Schedule 1 to the Income Tax Act 2007 (c. 3).

(ii) as a consequence of the shared funding the Association is unable to secure sole beneficial ownership of any intellectual property from the research and development, the Association must secure in the accounting period a right to use or exploit any intellectual property from the research and development for a period of not less than one year from the date on which the accounting period ends.

Breach of intellectual property requirements

17.—(1) This regulation applies where in respect of any intellectual property from research and development undertaken by or on behalf of an Association in an accounting period in respect of which a claim under section 508 is made the circumstances are such that none of the requirements in regulation 16(a), (b) or (c) is satisfied in relation to the intellectual property.

(2) Where this regulation applies at any time in an accounting period, the Association shall be deemed not to have satisfied the condition in section 508(1)(a) in relation to that accounting period (whether or not the intellectual property involved arose in or existed in that accounting period or in an earlier accounting period).