

---

STATUTORY INSTRUMENTS

---

**2009 No. 1917**

**The Overseas Companies (Execution of Documents  
and Registration of Charges) Regulations 2009**

**PART 2**

**EXECUTION OF DOCUMENTS ETC**

**Application of Part**

3. This Part applies to all overseas companies.

**Formalities of doing business under the law of England and Wales and Northern Ireland**

4. Sections 43, 44 and 46 of the Companies Act 2006 apply to overseas companies, modified so that they read as follows—

**“Company contracts**

43.—(1) Under the law of England and Wales or Northern Ireland a contract may be made—

- (a) by an overseas company, by writing under its common seal or in any manner permitted by the laws of the territory in which the company is incorporated for the execution of documents by such a company, and
- (b) on behalf of an overseas company, by any person who, in accordance with the laws of the territory in which the company is incorporated, is acting under the authority (express or implied) of that company.

(2) Any formalities required by law in the case of a contract made by an individual also apply, unless a contrary intention appears, to a contract made by or on behalf of an overseas company.

**Execution of documents**

44.—(1) Under the law of England and Wales or Northern Ireland a document is executed by an overseas company—

- (a) by the affixing of its common seal, or
- (b) if it is executed in any manner permitted by the laws of the territory in which the company is incorporated for the execution of documents by such a company.

(2) A document which—

- (a) is signed by a person who, in accordance with the laws of the territory in which an overseas company is incorporated, is acting under the authority (express or implied) of the company, and
- (b) is expressed (in whatever form of words) to be executed by the company,

has the same effect in relation to that company as it would have in relation to a company incorporated in England and Wales or Northern Ireland if executed under the common seal of a company so incorporated.

(3) In favour of a purchaser a document is deemed to have been duly executed by an overseas company if it purports to be signed in accordance with subsection (2).

A “purchaser” means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who for valuable consideration acquires an interest in property.

(4) Where a document is to be signed by a person on behalf of more than one overseas company, it is not duly signed by that person for the purposes of this section unless he signs it separately in each capacity.

(5) References in this section to a document being (or purporting to be) signed by a person who, in accordance with the laws of the territory in which an overseas company is incorporated, is acting under the authority (express or implied) of the company are to be read, in a case where that person is a firm, as references to its being (or purporting to be) signed by an individual authorised by the firm to sign on its behalf.

(6) This section applies to a document that is (or purports to be) executed by an overseas company in the name of or on behalf of another person whether or not that person is also an overseas company.

### **Execution of deeds**

**46.**—(1) A document is validly executed by an overseas company as a deed for the purposes of section 1(2)(b) of the Law of Property (Miscellaneous Provisions) Act 1989 (c.34) and for the purposes of the law of Northern Ireland if, and only if—

- (a) it is duly executed by the company, and
- (b) it is delivered as a deed.

(2) For the purposes of subsection (1)(b) a document is presumed to be delivered upon its being executed, unless a contrary intention is proved.”.

### **Formalities of doing business under the law of Scotland**

**5.** Section 48 of the Companies Act 2006 applies to overseas companies, modified so that it reads as follows—

#### **“Execution of documents by overseas companies**

**48.**—(1) The following provision forms part of the law of Scotland only.

(2) For the purposes of any enactment—

- (a) providing for a document to be executed by a company by affixing its common seal, or
- (b) referring (in whatever terms) to a document so executed,

a document signed or subscribed by or on behalf of an overseas company in accordance with the provisions of the Requirements of Writing (Scotland) Act 1995 (c.7) has effect as if so executed.”.

## **Other matters**

6. Section 51 of the Companies Act 2006 applies to overseas companies, modified so that it reads as follows—

### **“Pre-incorporation contracts, deeds and obligations**

**51.**—(1) A contract that purports to be made by or on behalf of an overseas company at a time when the company has not been formed has effect, subject to any agreement to the contrary, as one made with the person purporting to act for the company or as agent for it, and he is personally liable on the contract accordingly.

(2) Subsection (1) applies—

(a) to the making of a deed under the law of England and Wales or Northern Ireland,  
and

(b) to the undertaking of an obligation under the law of Scotland,

as it applies to the making of a contract.”

## **Revocation**

7. The Foreign Companies (Execution of Documents) Regulations 1994<sup>(1)</sup> and the Foreign Companies (Execution of Documents) Regulations (Northern Ireland) 2003<sup>(2)</sup> are revoked.

---

(1) S.I. 1994/950.

(2) S.R. (NI) 2003 No 5.