
STATUTORY INSTRUMENTS

2009 No. 1917

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

PART 3

REGISTRATION OF CHARGES

Charges requiring registration

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9.—(1) A charge requires registration under this Part if—

- (a) it is created by a company to which this Part applies,
- (b) the property subject to the charge is situated in the United Kingdom, and
- (c) the charge is of a type requiring registration.

(2) Whether the conditions in paragraph (1)(a) and (b) are met is determined when the charge is created.

(3) The types of charge requiring registration are—

- (a) a charge on land or any interest in land, other than a charge for rent or any other periodical sum issuing out of (in Scotland, payable in respect of) land;
- (b) a charge created or evidenced by an instrument that, if executed by an individual, would require registration as a bill of sale;
- (c) a charge for the purposes of securing any issue of debentures;
- (d) a charge on uncalled share capital of the company;
- (e) a charge on calls made but not paid;
- (f) a charge on book debts of the company;
- (g) a floating charge on the company's property or undertaking;
- (h) a charge on a ship or aircraft, or any share in a ship;
- (i) a charge on goodwill or on any intellectual property.

(4) For the purposes of paragraph (3)(a)—

- (a) a charge on land includes a charge created by a heritable security within the meaning of section 9(8) of the Conveyancing and Feudal Reform (Scotland) Act 1970⁽¹⁾; and
- (b) the holding of debentures entitling the holder to a charge on land is not an interest in the land.

(5) For the purposes of paragraph (3)(f) the deposit by way of security of a negotiable instrument given to secure the payment of book debts is not a charge on those book debts.

⁽¹⁾ 1970 c.35.

- (6) For the purposes of paragraph (3)(i), “intellectual property” means—
- (a) any patent, trade mark, registered design, copyright or design right; or
 - (b) any licence under or in respect of any such right.

Duty to deliver particulars of charge etc for registration

10.—(1) A company to which this Part applies that creates a charge requiring registration must deliver the required particulars of the charge, together with a certified copy of the instrument (if any) by which the charge is created or evidenced, to the registrar before the end of the period allowed for registration.

(2) Registration of the charge may instead be effected on the application of a person interested in it.

(3) Where registration is effected on the application of some person other than the company, that person is entitled to recover from the company the amount of any fees properly paid by him to the registrar on registration.

(4) Paragraph (1) does not apply if the property subject to the charge is, at the end of the period allowed for registration, no longer situated in the United Kingdom.

The required particulars

11.—(1) The required particulars are—

- (a) the date of the creation of the charge,
- (b) a description of the instrument (if any) creating or evidencing the charge,
- (c) the amount secured by the charge,
- (d) the name and address of the person entitled to the charge, and
- (e) short particulars of the property charged.

(2) In the case of a floating charge created under the law of Scotland, the required particulars include a statement as to any provisions of the charge and of any instrument relating to it—

- (a) which prohibit or restrict or regulate the power of the company to grant further securities ranking in priority to, or *pari passu* with, the floating charge, or
- (b) which vary or otherwise regulate the order of ranking of the floating charge in relation to subsisting securities.

The period allowed for registration

12. The period allowed for registration of the charge is—

- (a) 21 days, beginning with the day after the day on which the charge is created, or
- (b) if the charge is created outside the United Kingdom, 21 days beginning with the day after the day on which the instrument by which the charge is created or evidenced (or a copy of it) could, in due course of post (and if despatched with due diligence) have been received in the United Kingdom.

Charge by way of *ex facie* absolute disposition

13.—(1) For the avoidance of doubt, it is hereby declared that, in the case of a charge created under the law of Scotland by way of an *ex facie* absolute disposition or assignation qualified by a back letter or other agreement, or by a standard security qualified by an agreement, compliance

with regulation 10(1) does not of itself render the charge unavailable as security for indebtedness incurred after the date of compliance.

(2) Where the amount secured by a charge so created is purported to be increased by a further back letter or agreement, a further charge is held to have been created by the *ex facie* absolute disposition or assignation or (as the case may be) by the standard security, as qualified by the further back letter or agreement.

(3) In that case, the provisions of this Part apply to the further charge as if—

- (a) references in this Part (other than in this regulation) to a charge were references to the further charge, and
- (b) references to the date of creation of a charge were references to the date on which the further back letter or agreement was executed.