

2015 No. 1694

COMPANIES

**The Companies (Disclosure of Date of Birth Information)
Regulations 2015**

<i>Made</i> - - - -	<i>17th September 2015</i>
<i>Laid before Parliament</i>	<i>18th September 2015</i>
<i>Coming into force</i> - -	<i>10th October 2015</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 243(3), 1087B(2) and (3), and 1292(1) of the Companies Act 2006(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Companies (Disclosure of Date of Birth Information) Regulations 2015 and come into force on 10th October 2015.

(2) In these Regulations—

“the “Act” means the Companies Act 2006 and, unless the context otherwise requires, reference to a numbered section is a section so numbered in that Act;

“the 1985 Act” means the Companies Act 1985(b);

“the 1986 Order” means the Companies (Northern Ireland) Order 1986(c);

“specified public authority” means any public authority specified in Schedule 1 to these Regulations.

Permitted disclosure by the registrar to specified public authorities

2.—(1) The registrar may disclose restricted DOB information(d) to a specified public authority where the conditions specified in paragraphs 2 and 3 of Schedule 2 are satisfied.

(2) A specified public authority shall deliver to the registrar such information or evidence as the registrar may direct for the purpose of enabling the registrar to determine in accordance with these Regulations whether to disclose restricted DOB information to a specified public authority.

(3) The registrar may require such information or evidence to be verified in such manner as the registrar may direct.

(a) 2006 c. 46; section 1087B was inserted by the Small Business Enterprise and Employment Act 2015 (c. 26), section 96(1) and (3).

(b) 1985 c. 6.

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

(d) “Restricted DOB information” means information falling within section 1087A(1) of the Companies Act 2006, as inserted by the Small Business, Enterprise and Employment Act 2015 (c. 26), section 96.

(4) The specified public authority must inform the registrar immediately of any change in respect of any statement delivered to the registrar pursuant to Schedule 2 or information or evidence provided for the purpose of enabling the registrar to determine whether to disclose restricted DOB information.

(5) The public authorities specified for the purposes of section 1087B(2) are set out in Schedule 1 to these Regulations.

Permitted disclosure by the registrar to credit reference agencies

3.—(1) The registrar may disclose restricted DOB information to a credit reference agency where the conditions specified in paragraphs 6 to 10 of Schedule 2 are satisfied.

(2) The registrar may rely on a statement delivered to the registrar by a credit reference agency under paragraph 10 of Schedule 2 as sufficient evidence of the matters stated in it.

(3) Notwithstanding paragraph (2), a credit reference agency shall deliver to the registrar such information or evidence in addition to the statement required by paragraph 10 of Schedule 2 as the registrar may direct for the purpose of enabling the registrar to determine in accordance with these Regulations whether to disclose restricted DOB information to a credit reference agency.

(4) The registrar may require such information or evidence to be verified in such manner as the registrar may direct.

(5) The credit reference agency must inform the registrar immediately of any change in respect of any statement delivered to the registrar pursuant to Schedule 2 or information or evidence provided for the purpose of enabling the registrar to determine whether to disclose restricted DOB information.

17th September 2015

Baroness Neville-Rolfe
Parliamentary Under Secretary of State for Business, Innovation and Skills
Department for Business, Innovation and Skills

SCHEDULE 1

Regulation 2

SPECIFIED PUBLIC AUTHORITIES

The Secretary of State;
the Minister for the Cabinet Office;
any Northern Ireland Department;
the Scottish Ministers;
the Welsh Ministers;
the Treasury;
the Commissioners for Her Majesty's Revenue and Customs;
the Bank of England;
the Director of Public Prosecutions;
the Director of Public Prosecutions for Northern Ireland;

the Serious Fraud Office;

the Secret Intelligence Service;

the Security Service;

the Government Communications Headquarters;

the Financial Conduct Authority;

the Prudential Regulation Authority;

the Competition and Markets Authority;

the Pensions Regulator;

the Panel on Takeovers and Mergers;

the Regulator of Community Interest Companies;

the Registrar of Credit Unions for Northern Ireland;

the Office of the Information Commissioner;

the Charity Commission;

the Charity Commission for Northern Ireland;

the Office of the Scottish Charity Regulator;

the Office of Communications;

the Gas and Electricity Markets Authority;

the Northern Ireland Authority for Utility Regulation;

the Gambling Commission;

the National Crime Agency;

the Health and Safety Executive;

the Office for Nuclear Regulation;

the Health and Safety Executive for Northern Ireland;

the Food Standards Agency;

the Gangmasters Licensing Authority;

the Security Industry Authority;

a local authority within the meaning of section 54(2) of the Act;

an official receiver appointed under section 399 of the Insolvency Act 1986^(a) (appointment, etc., of official receivers);

the Official Receiver for Northern Ireland;

the Crown Office and Procurator Fiscal Services;

the Marine Management Organisation;

(a) 1986 c. 45; section 399 was amended by the Enterprise Act 2002 (c. 40), Schedule 23, paragraph 14 the Tribunals, Courts and Enforcement Act 2007 (c. 15), Schedule 20, paragraph 7 and the Crime and Courts Act 2013 (c. 22), Schedule 9, paragraph 93.

a person acting as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986**(a)** (meaning of “act as an insolvency practitioner”) or Article 3 of the Insolvency (Northern Ireland) Order 1989**(b)** (“act as an insolvency practitioner”);

an inspector appointed under Part 14 of the 1985 Act (investigation of companies and their affairs: requisition of documents) or Part 15 of the 1986 Order or a person appointed under regulation 30 of the Open-Ended Investment Companies Regulations 2001**(c)** (power to investigate) or regulation 22 of the Open-Ended Investment Companies Regulations (Northern Ireland) 2004**(d)**;

any person authorised to exercise powers under section 447 of the 1985 Act**(e)** (power to require documents and information), or section 84 of the Companies Act 1989**(f)** (exercise of powers by officers, etc.) or Article 440 of the 1986 Order;

any person exercising functions conferred by Part 6 of the Financial Services and Markets Act 2000**(g)** (official listing);

a person appointed to make a report under section 166 or 166A (reports by skilled persons) of the Financial Services and Markets Act 2000**(h)**;

a person appointed to conduct an investigation under section 167 (appointment of persons to carry out general investigations) or 168(3) or (5) (appointment of persons to carry out investigations in particular cases) of the Financial Services and Markets Act 2000**(i)**;

an inspector appointed under section 284 (power to investigate) of the Financial Services and Markets Act 2000**(j)**;

an overseas regulatory authority within the meaning of section 82 of the Companies Act 1989**(k)** (request for assistance by overseas regulatory authority);

a police force or police service within the meaning of section 101(1) of the Police Act 1996**(l)** (interpretation), section 6 of the Police and Fire Reform (Scotland) Act 2012 **(m)** (the Police Service of Scotland) or section 1 of the Police (Northern Ireland) Act 2000**(n)** (name of the police in Northern Ireland);

the Scottish Housing Regulator;

the lead enforcement authority (as defined in section 33(1) of the Estate Agents Act 1979**(o)**) exercising functions under the Estate Agents Act 1979.

(a) Section 388 was amended by the Bankruptcy (Scotland) Act 1993 (c. 6), section 11, the Insolvency Act 2000 (c. 39), section 4 and S.I. 1994/2421, 2002/1240, 2002/2708 and 2009/1941.

(b) S.I. 1989/2405.

(c) S.I. 2001/1228.

(d) S.I. 2004/335.

(e) Regulation 22 was amended by the Companies Act 2006 (c. 46), section 1038 and S.I. 2004/3322.

(f) 1989 c. 40.

(g) 2000 c. 8.

(h) Section 166 of the Financial Services and Markets Act 2000 was amended by the Financial Services Act 2012 (c. 21) Schedule 12 paragraph 5 and section 166A was inserted by paragraph 6 of that Schedule.

(i) The definition of “investment authority” in section 168(5) was amended by the Financial Services Act 2012 (c. 21), Schedule 12, paragraph 8.

(j) Section 284 was amended by the Financial Services Act 2012 (c. 21), Schedule 18, paragraph 17.

(k) Section 82 was amended by the Financial Services Act 2012 (c. 21), Schedule 18, paragraph 63 the Criminal Justice Act 1993 (c. 36), Schedule 5, paragraph 11 and S.I. 2001/3649 and 2008/949.

(l) 1996 c. 16.

(m) 2012 asp 8.

(n) 2000 c. 32.

(o) 1979 c. 38; the definition of “lead enforcement authority” was amended by S.I. 2014/631.

CONDITIONS FOR PERMITTED DISCLOSURE

PART 1

Disclosure to specified public authorities

1. Paragraphs 2 and 3 set out the conditions specified for the disclosure of restricted DOB information by the registrar to a specified public authority.

2. The specified public authority has delivered to the registrar a statement that it intends to use the restricted DOB information only for the purpose of facilitating the carrying out by that specified public authority of a public function.

3. Subject to paragraph 4, the specified public authority (“the authority”) has delivered to the registrar a statement that it will, where it supplies a copy of the restricted DOB information to a processor for the purpose of processing the information for use in respect of facilitating the carrying out of a public function by that authority—

- (a) ensure that the processor is one who carries on business in the European Economic Area;
- (b) require that the information is not transmitted outside the European Economic Area by the processor; and
- (c) require that the processor does not disclose the information except to the authority or an employee of the authority.

4. Paragraph 3 does not apply where the specified public authority is the Secret Intelligence Service, Security Service or Government Communications Headquarters.

PART 2

Disclosure to a credit reference agency

5. Paragraphs 6 to 10 set out the conditions specified for the disclosure of restricted DOB information by the registrar to a credit reference agency.

6. The credit reference agency—

- (a) is carrying on in the United Kingdom or in another EEA State a business comprising the furnishing of information relevant to the financial standing of individuals, being information collected by the agency for that purpose;
- (b) maintains appropriate procedures—
 - (i) to ensure that an independent person can investigate and audit the measures maintained by the agency for the purposes of ensuring the security of any restricted DOB information disclosed to that agency; and
 - (ii) for the purposes of ensuring that it complies with its obligations under the Data Protection Act 1998(a), or, where the agency carries on business in a EEA State other than the United Kingdom, with its obligations under legislation implementing Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data(b);
- (c) has not been found guilty of an offence under—

(a) 1998 c. 29.

(b) OJ L 81, 23.11.1995, p. 31.

- (i) section 1112 (general false statement offence) of the Act or section 2 of the Fraud Act 2006^(a) (fraud by false representation); or
- (ii) section 47 (failure to comply with enforcement notice) of the Data Protection Act 1998 in circumstances where it has used the restricted DOB information for purposes other than those described in sub-paragraphs (a) to (e) of paragraph 7 below.

7. The credit reference agency has delivered to the registrar a statement that it intends to use the restricted DOB information only for the purposes of—

- (a) providing an assessment of the financial standing of a person;
- (b) meeting any obligations contained in the Money Laundering Regulations 2007^(b) or any rules made pursuant to section 137A of the Financial Services and Markets Act 2000^(c) which relate to the prevention and detection of money laundering in connection with the carrying on of regulated activities by authorised persons, or in any legislation of another EEA State implementing Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing^(d);
- (c) conducting conflict of interest checks required or made necessary by any enactment;
- (d) the provision of restricted DOB information to—
 - (i) a specified public authority which has satisfied the requirements of paragraphs 2 and 3 of this Schedule; or
 - (ii) a credit reference agency which has satisfied the requirements of this Part of this Schedule; or
- (e) conducting checks for the prevention and detection of crime and fraud.

8. The credit reference agency has delivered to the registrar a statement that it intends to take delivery of and to use the restricted DOB information only in the United Kingdom or in another EEA State.

9. The credit reference agency has delivered to the registrar a statement that it will, where it supplies a copy of the restricted DOB information to a processor for the purpose of processing the information for use in respect of the purposes referred to in paragraph 7—

- (a) ensure that the processor is one who carries on business in the European Economic Area;
- (b) require that the information is not transmitted outside the European Economic Area by the processor; and
- (c) require that the processor does not disclose the information except to the credit reference agency or an employee of the credit reference agency.

10. The credit reference agency has delivered to the registrar a statement that it meets the conditions in paragraph 6 above.

PART 3

Interpretation of this Schedule

11.—(1) In this Schedule—

“processor” means any person who provides a service which consists of putting information into data form or processing information in data form and any reference to a processor includes a reference to its employees; and

(a) 2006 c. 35.
 (b) S.I. 2007/2157.
 (c) Section 137A was inserted by section 24 of the Financial Services Act 2012 c. 21.
 (d) OJ L 309, 25.11.2005, p. 15.

“public function” includes—

- (a) any function conferred by or in accordance with any provision contained in any enactment;
- (b) any function conferred by or in accordance with any provision contained in the Community Treaties or any EU instrument;
- (c) any similar function conferred on persons by or under provisions having effect as part of the law of a country or territory outside the United Kingdom; and
- (d) any function exercisable in relation to the investigation of any criminal offence or for the purpose of any criminal proceedings.

(2) In this Schedule any reference to—

- (a) an employee of any person who has access to restricted DOB information shall be deemed to include any person working or providing services for the purposes of that person or employed by or on behalf of, or working for, any person who is so working or who is supplying such a service; and
- (b) the disclosure for the purpose of facilitating the carrying out of a public function includes disclosure in relation to, and for the purpose of, any proceedings whether civil, criminal or disciplinary in which the specified public authority engages while carrying out its public functions.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify the conditions for disclosure of date of birth information (defined as “DOB information” in section 1087A of the Companies Act 2006 (c.46)) to public authorities and credit reference agencies under 1087B of that Act.

Regulation 2 and Schedule 1 specify the public authorities to whom the registrar may disclose DOB information in accordance with section 1087B of the Companies Act 2006.

Regulations 2 and 3 and Schedule 2 specify the conditions for the disclosure of such information to a public authority or credit reference agency.

An impact assessment had not been produced for this instrument, as no impact on the private, voluntary or public sector is foreseen.

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