

SCHEDULE 3

Regulation 21

Amendments relating to European Public Limited-Liability Companies

PART 1

Application of the Companies Act 2006, the Overseas Companies Regulations 2009 and the Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009 to European Public Limited-Liability Companies

Interpretation

1. In this Part—

“the Overseas Companies Regulations” means the Overseas Companies Regulations 2009(1);
“SE” means a European Public Limited-Liability Company (or *Societas Europaea*), within the meaning of Council Regulation 2157/2001/EC of 8 October 2001 on the Statute for a European Company(2), as it has effect in EU law as amended from time to time.

Application of the Companies Act 2006

2. An SE which subsists on exit day is regarded—

- (a) for the purpose of section 1044 (overseas companies) of the Companies Act 2006 as having been incorporated outside the United Kingdom, and
- (b) for the purpose of section 1050 (accounts and reports: credit or financial institutions) of the Companies Act 2006 as having been incorporated outside the United Kingdom and Gibraltar.

3. In the application of Part 35 of the Companies Act (the registrar of companies) to an SE, references to “director” or “board of directors” are to be read as if they were references—

- (a) in a one-tier system, to the members of the administrative organ of an SE;
- (b) in a two-tier system, to the members of the supervisory and management organs of an SE.

Application of the Overseas Companies Regulations

4. Paragraphs 5 to 10 apply in the application of the Overseas Companies Regulations to an SE.

5. References to “directors” or “board of directors” are to be read as if they were references—

- (a) in a one-tier system, to the members of the administrative organ of an SE;
- (b) in a two-tier system, to the members of the supervisory and management organs of an SE.

6. In regulation 6 (particulars of the company), paragraph (1)(c) is to be read as if “if it is registered in the country of its incorporation,” were omitted.

7. In regulation 31 (application and interpretation of Chapter), the definition of “parent law” in paragraph (2) is to be read as if for “incorporated” there were substituted “registered”.

8. In regulation 60 (requirement to display name etc at business location), the words in paragraph (1) before sub-paragraph (a) are to be read as if for “incorporation” there were substituted “registration”.

(1) S.I. 2009/1801, to which there are amendments not relevant to these provisions.

(2) OJ No. L 294, 10.11.2001, p. 1, last amended by OJ No. L 158, 10.6.2013, p.1.

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9. Regulation 61 (manner of display of name etc) is to be read as if for “incorporation” there were substituted “registration”.

10. In regulation 63 (particulars to appear in business letters, order forms and websites)—

(a) paragraph (4)(a) is to be read as if for “incorporation” there were substituted “registration”;

(b) paragraph (4)(b) is to be read as if—

(i) “, if any,” were omitted; and

(ii) for “incorporation” there were substituted “registration”.

Transitional provision for the application of the Overseas Companies Regulations 2009 to existing establishments of SEs

11.—(1) Where—

(a) an SE has a UK establishment, within the meaning of the Overseas Companies Regulations, on exit day, or

(b) an SE which is a credit or financial institution has a branch in the United Kingdom, within the meaning of Part 6 of the Overseas Companies Regulations, on exit day,

the SE is treated for the purposes of the Overseas Companies Regulations as if it had opened its UK establishment or branch on exit day.

(2) Sub-paragraph (1) does not apply in respect of regulation 7(1)(b) (particulars of the establishment) of the Overseas Companies Regulations.

(3) Where sub-paragraph (1) applies—

(a) regulations 4(1) and 45 are to be read as if for “one month” there were substituted “three months”;

(b) the SE must comply with its obligations in Part 7 (trading disclosures) of the Overseas Companies Regulations within three months of exit day.

Transitional provision for the application of the Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009

12. In the application of the Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009(3) to an SE—

(a) a charge subsisting on the day on which Part 3 of those Regulations applies to the SE (“the relevant day”) is to be treated for the purpose of regulation 24 of those Regulations as if that charge had been created on the relevant day;

(b) where sub-paragraph (a) applies, regulation 24(1) of those Regulations is to be read as if for “21 days” there were substituted “three months”.

PART 2

Amendment to the European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018: transitional arrangements for employee engagement

13. Part 4 of the European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018(4) is amended as follows.

(3) [S.I. 2009/1917](#), amended by [S.I. 2011/2194](#).

(4) [S.I. 2018/1298](#).

14. In regulation 147, for “152” substitute “152A”.

15. After regulation 152 insert—

“152A.—(1) Despite the amendments and revocations made by these Regulations, paragraph 5(1) of the Schedule to the pre-exit 2009 GB Regulations applies to a UK Societas whose representative body was established less than four years before exit day.

(2) Where paragraph 5(1) applies—

- (a) regulations 14 to 16 and 18 of the pre-exit 2009 GB Regulations apply, to the representative body as they apply to the special negotiating body, and the date referred to in regulation 14(3) is the date of the decision;
- (b) Parts 2 and 3 of the Schedule to the pre-exit 2009 GB Regulations apply, where appropriate, and
- (c) the following modifications to the pre-exit 2009 GB Regulations have effect—
 - (i) references to “EEA State” are to be read as though they were references to “Relevant State”;
 - (ii) references to “SE” are to be read as if they were references to “UK Societas”.

16. In regulation 154, for “159” substitute “159A”.

17. After regulation 159 insert—

“159A.—(1) Despite the amendments and revocations made by these Regulations, paragraph 5(1) of the Schedule to the pre-exit 2009 NI Regulations applies to a UK Societas whose representative body was established less than four years before exit day.

(2) Where paragraph 5(1) applies—

- (a) regulations 14 to 16 and 18 of the pre-exit 2009 NI Regulations apply, to the representative body as they apply to the special negotiating body, and the date referred to in regulation 14(3) is the date of the decision;
- (b) Parts 2 and 3 of the Schedule to the pre-exit 2009 NI Regulations apply, where appropriate, and
- (c) the following modifications to the pre-exit 2009 NI Regulations have effect—
 - (i) references to “EEA State” are to be read as though they were references to “Relevant State”;
 - (ii) references to “SE” are to be read as if they were references to “UK Societas”.

PART 3

Consequential amendments in relation to the European Public Limited-Liability Company (Amendment etc.) (EU Exit) Regulations 2018

Amendment of the Employment Rights Act 1996

18. In section 205A of the Employment Rights Act 1996⁽⁵⁾ (employee shareholders), in subsection (13), in the definition of “company”, for paragraph (b) substitute—

(5) 1996 c.18. Section 205A was inserted by section 31 of the Growth and Infrastructure Act 2013 c.27.

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- “(b) a United Kingdom Societas (or UK Societas) within the meaning of Council Regulation 2157/2001/EC of 8 October 2001 on the Statute for a European company;”.

Amendment of the Transnational Information and Consultation of Employees Regulations 1999

19. In regulation 46A of the Transnational Information and Consultation of Employees Regulations 1999(6)—

- (a) in paragraph (1), for “an SE” substitute “a UK Societas”;
- (b) for paragraph (2) substitute—

“(2) In this regulation “UK Societas” means a United Kingdom Societas within the meaning of Council Regulation 2157/2001/EC of 8 October 2001 on the Statute for a European Company.”.

Amendment of the Companies Act 2006

20. In section 1285 of the Companies Act 2006(7) (extension of GB enactments relating to SEs)

- (a) in the heading and in subsection (1), for “SEs” substitute “UK Societas”;
- (b) for subsection (3) substitute—

“(3) In this section “UK Societas” means a United Kingdom Societas within the meaning of Council Regulation 2157/2001/EC of 8 October 2001 on the Statute for a European Company.”.

Amendment of the Companies (Disclosure of Address) Regulations 2009

21. The Companies (Disclosure of Address) Regulations 2009(8) are amended as follows—

- (a) in regulation 1 (citation, commencement and interpretation), in paragraph (2)—
 - (i) at the end of the definition of “the Northern Ireland SEs Regulations” insert “as they had effect at the time the address was filed”;
 - (ii) at the end of the definition of “the SEs Regulations” insert “as they had effect at the time the address was filed”;
- (b) in regulation 9 (application under section 1088 to make an address unavailable for public inspection by an individual), in paragraph (1)(d), after “Societas Europaea” insert “or a member of a United Kingdom Societas”.

Amendment of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

22. In regulation 28 (customer due diligence measures) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017(9), in paragraph (9)

(a)(iii)—

- (a) for “European Public Limited-Liability Company” substitute “UK Societas”;
- (b) omit the words “which is to be, or is, registered in the United Kingdom”.

(6) [S.I. 1999/3323](#), substituted [S.I. 2009/2401](#), and in respect of Northern Ireland, [S.I. 2009/2402](#).

(7) [2006 c.46](#).

(8) [S.I. 2009/214](#); regulation 1 was amended by [S.I. 2009/2400](#). Regulation 9 was substituted by [S.I. 2018/528](#). There are other amending instruments but none is relevant.

(9) [S.I. 2017/692](#).

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