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STATUTORY INSTRUMENTS

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**2002 No. 912**

**The Companies (Particulars of Usual Residential Address) (Confidentiality Orders) Regulations 2002**

**PART I**

**Applications for confidentiality orders under section 723B of the 1985 Act**

- 2.—(1) An application for a confidentiality order shall be made to the Secretary of State.
- (2) An application for a confidentiality order shall:
- (a) be in such form and contain such information and be accompanied by such evidence as the Secretary of State may from time to time direct;
  - (b) specify each company of which the applicant is or proposes to become a director, secretary or permanent representative and shall specify an address complying with regulation 9;
- (3) The Secretary of State may from time to time direct different information or evidence be provided for different cases or categories of application.
- (4) The Secretary of State may require any information or evidence delivered by an applicant to be verified in such manner as she may direct.
- (5) The Secretary of State may require any application to be supported by a statement by any company to which the application relates that that company wishes a confidentiality order to be made in respect of the applicant together with the statement of the reasons for that wish.
- (6) At any time after receiving an application and before determining it, the Secretary of State may require that any applicant deliver additional information or evidence including the delivery by a company of a statement complying with paragraph (5).
- (7) Subject to paragraph (8) each application shall be accompanied by a fee of £100, and the Secretary of State may reject any application without considering it unless it is accompanied by such fee.
- (8) No fee shall be payable where an application is made by an applicant—
- (a) who at the same time has made an application for a confidentiality order under the LLP Regulations, and where a fee has been paid in respect of that application; or
  - (b) in respect of whom, at the time of the application, a confidentiality order made under the LLP Regulations is in force.
- (9) An applicant may withdraw his application, by notice delivered to the Secretary of State, at any time before the Secretary of State makes a decision on the application, and the Secretary of State may retain the fee paid in respect of that application.

**Referral of questions for the purposes of the determination of an application**

- 3.—(1) The Secretary of State may, in respect of any application or category of applications, refer to a relevant body any question relating to an assessment, in the case of such application or category of applications, of the nature and extent of any risk of violence or intimidation considered by the

applicant as likely to be created in relation to the applicant, or any person living with him, by virtue of the availability for inspection by members of the public of particulars of his usual residential address.

(2) The Secretary of State may also refer to a relevant body any question as to the nature or extent of any risk of violence or intimidation likely to be created in relation to any applicant or category of applicants or persons living with them as a result of their involvement in the activities of a particular company or category of companies or of a particular sector of commerce or industry.

(3) The Secretary of State may accept any answer to a question referred in accordance with paragraph (1) or (2) as providing sufficient evidence of the nature and extent of any risk relevant to an applicant or any person living with him for the purposes of any determination under section 723B(3) or (4) of the 1985 Act.

(4) In this regulation, “relevant body” means any police force and any other person whom the Secretary of State considers may be able to assist in answering a question referred to that person under paragraph (1) or (2).

#### **Notification of the outcome of an application**

4. The Secretary of State shall send the applicant at his usual residential address, as stated in his application, notice of her decision under section 723B(3) or (4) of the 1985 Act and such notice shall be sent within five working days of the decision being made.

#### **Appeals**

5.—(1) An applicant who has received notice under regulation 4 that his application for a confidentiality order has been unsuccessful may appeal to the High Court or the Court of Session on the grounds that the decision—

- (a) is unlawful;
- (b) is irrational or unreasonable; or
- (c) has been made on the basis of a procedural impropriety or otherwise contravenes the rules of natural justice.

(2) No appeal under this regulation may be brought unless the leave of the court has been obtained.

(3) An applicant must bring an appeal within 21 days of the sending of the notice under regulation 4 or, with the court’s permission, after the end of such period, but only if the court is satisfied:

- (a) where permission is sought before the end of that period, that there is good reason for the applicant being unable to bring the appeal in time; or
- (b) where permission is sought after that time, that there was a good reason for the applicant’s failure to bring the appeal in time and for any delay in applying for permission.

(4) The court determining an appeal may—

- (a) dismiss the appeal; or
- (b) quash the decision,

and where the court quashes a decision it may refer the matter to the Secretary of State with a direction to reconsider it and to make a determination in accordance with the findings of the court.