

## SCHEDULE 5

Regulation 48

### AMENDMENTS TO THE 2009 REGULATIONS

1. The 2009 Regulations are amended as follows.
2. In regulation 1(2) (citation, commencement and interpretation), insert the following entries at the appropriate place—
  - ““the 2016 Regulations” means the Register of People with Significant Control Regulations 2016;”;
  - and
  - ““registrable person” means a registrable person under Part 21A of the Act;”.
- 3.—(1) Regulation 5 (application under section 243 by an individual) is amended as follows.
  - (2) In paragraph (2)—
    - (a) in sub-paragraph (a) for “considers” substitute “reasonably believes”;
    - (b) after (a)(ii) insert—
      - “(iia) the companies of which that individual is, or proposes to become, a registrable person;
      - (iib) the companies of which that individual used to be a registrable person;”;
    - (c) in sub-paragraph (a)(iv), in the second place that it appears, omit “or”; and
    - (d) in sub-paragraph (b) for “organisation.” substitute—
      - “organisation; or
      - (c) is the subject of an application made under regulation 25, 26 or 27 of the 2016 Regulations which has been determined by the registrar in favour of the applicant and that determination has not ceased to have effect under regulation 31 of those Regulations.”
  - (3) In paragraph (3)—
    - (a) after sub-paragraph (a)(iv) insert—
      - “(iva) the e-mail address of the applicant, if any;”;
    - (b) after sub-paragraph (a)(vi) insert—
      - “(via) the name and registered number of each company of which the applicant is, or proposes to become, a registrable person;”;
    - (c) in sub-paragraph (a)(vii) for “(2)(a)(ii), (iii) or (iv)” substitute “(2)(a)(ii), (iia), (iib), (iii) or (iv)”;
    - (d) in sub-paragraph (a)(vii), in the second place that it appears, omit “and”;
    - (e) after sub-paragraph (a)(vii) insert—
      - “(viii) where the grounds of the application are those described in paragraph (2) (c), the name and registered number of the company in relation to which the determination was made, unless the determination relates to a proposed company which was never incorporated; and”;
    - (f) for sub-paragraph (b) substitute—
      - “(b) where the grounds of the application are those described in paragraph (2)(a) or (2)(b), be accompanied by evidence which supports the applicant’s statement of the grounds on which the application is made.”
  - (4) For paragraph (5) substitute—

“(5) The registrar must determine the application and, within 7 days beginning with the date that the determination is made, send to the applicant notice of the determination.

(6) Where the application is unsuccessful, the notice under paragraph (5) must inform the applicant of the applicant’s right to apply for permission to appeal against the determination within 28 days beginning with the date of the notice.”

4. For regulations 6 and 7 substitute—

**“Application under section 243 by a company**

6.—(1) A company (“the applicant”) may make a section 243 application to the registrar relating to an individual (“D”) who is, or proposes to become, a director of the company.

(2) A company may only make an application under paragraph (1) where D has given consent for the company to make the application on D’s behalf.

(3) The grounds on which an application under paragraph (1) may be made are that—

- (a) the applicant reasonably believes that there is a serious risk that D, or a person who lives with D, will be subjected to violence or intimidation as a result of the applicant’s activities; or
- (b) D is the subject of an application made under regulation 25, 26 or 27 of the 2016 Regulations which has been determined by the registrar in favour of the applicant and that determination has not ceased to have effect under regulation 31 of those Regulations.

(4) Where the grounds of the application are those described in paragraph (3)(b), the application must only relate to one individual who is, or proposes to become, a director of the company.

(5) The application must contain—

- (a) a statement of the grounds on which the application is made;
- (b) confirmation that D consents to the making of the application;
- (c) the name and registered number of the applicant;
- (d) the address of the registered office of the applicant;
- (e) the e-mail address of the applicant, if any;
- (f) the name and any former name of D;
- (g) the date of birth of D;
- (h) the usual residential address of D;
- (i) the e-mail address of D, if any;
- (j) where the registrar has allocated a unique identifier to D, that unique identifier;
- (k) where D is a director of another company, the name and registered number of that company; and
- (l) where the grounds of the application are those described in paragraph (3)(b), the name and registered number of the company in relation to which the determination was made, unless the determination relates to a proposed company which was never incorporated.

(6) Where the grounds of the application are those described in paragraph (3)(a), the application must be accompanied by evidence which supports the applicant’s statement of the grounds on which the application is made.

(7) The registrar may refer to a relevant body any question relating to an assessment of the nature or extent of any risk of violence or intimidation.

(8) The registrar must determine the application and, within 7 days beginning with the date that the determination is made, send to the applicant and to D notice of the determination.

(9) Where the application is unsuccessful, the notice under paragraph (8) must inform the applicant of the applicant's right to apply for permission to appeal against the determination within 28 days beginning with the date of the notice.

### **Application under section 243 by a subscriber to a memorandum of association**

7.—(1) A subscriber to a memorandum of association (“the applicant”) may make a section 243 application to the registrar relating to an individual (“D”) who proposes to become, on or after the formation of the company to which the memorandum relates, a director of the company.

(2) A subscriber to a memorandum of association may only make an application under paragraph (1) where D has given consent for the subscriber to make the application on D's behalf.

(3) The grounds on which an application under paragraph (1) may be made are that—

- (a) the applicant reasonably believes that there is a serious risk that D, or a person who lives D, will be subjected to violence or intimidation as a result of the proposed activities of the proposed company to which the memorandum relates; or
- (b) D is the subject of an application made under regulation 25, 26 or 27 of the 2016 Regulations which has been determined by the registrar in favour of the applicant and that determination has not ceased to have effect under regulation 31 of those Regulations.

(4) Where the grounds of the application are those described in paragraph (3)(b), the application must only relate to one individual who proposes to become a director in relation to the proposed company.

(5) The application must contain—

- (a) a statement of the grounds on which the application is made;
- (b) confirmation that D consents to the making of the application;
- (c) the name and any former name of the applicant;
- (d) the usual residential address of the applicant;
- (e) the e-mail address of the applicant, if any;
- (f) the name of the proposed company to which the memorandum relates;
- (g) the name and any former name of D;
- (h) the date of birth of D;
- (i) the usual residential address of D;
- (j) the e-mail address of D, if any;
- (k) where the registrar has allocated a unique identifier to D, that unique identifier;
- (l) where D is a director of another company, the name and registered number of that company; and
- (m) where the grounds of the application are those described in paragraph (3)(b), the name and registered number of the company in relation to which the

determination was made, unless the determination relates to a proposed company which was never incorporated.

(6) Where the grounds of the application are those described in paragraph (3)(a), the application must be accompanied by evidence which supports the applicant's statement of the grounds on which the application is made.

(7) The registrar may refer to a relevant body any question relating to an assessment of the nature or extent of any risk of violence or intimidation.

(8) The registrar must determine the application and, within 7 days beginning with the date that the determination is made, send to the applicant and to D notice of the determination.

(9) Where the application is unsuccessful, the notice under paragraph (8) must inform the applicant of the applicant's right to apply for permission to appeal against the determination within 28 days beginning with the date of the notice."

**5.—**(1) Regulation 8 (matters relating to a section 243 application) is amended as follows.

(2) In paragraph (3)—

- (a) for "6(4) or 7(4)" substitute "6(7) or 7(7)";
- (b) in sub-paragraph (a)(ii) for "6(2)" substitute "6(3)(a)"; and
- (c) in sub-paragraph (a)(iii) for "7(2)" substitute "7(3)(a)".

**6.—**(1) Regulation 9 (application under section 1088 to make an address unavailable for public inspection by an individual) is amended as follows.

(2) In paragraph (1)—

- (a) in sub-paragraph (bb)(1), in the second place that it appears, omit "or";
- (b) in sub-paragraph (c), after "section 1046," insert "or"; and
- (c) after sub-paragraph (c) insert—
  - "(d) as a service address in a statement of initial significant control delivered to the registrar under section 9 (registration documents),
  - (e) as a service address included in the required particulars of a registrable person delivered to the registrar to comply with an obligation in Part 21A of the Act, or
  - (f) as a service address delivered to the registrar at the same time as a confirmation statement under section 853I(2) (duty to deliver information about people with significant control),".

(3) In paragraph (2)—

- (a) after sub-paragraph (a)(i), in the second place that it appears, omit "or";
- (b) after sub-paragraph (a)(ii) insert—
  - "(iii) that individual is, or proposes to become, a registrable person; or
  - (iv) that individual used to be a registrable person;"; and
- (c) in paragraph (c) for "beneficiary." substitute—
  - "beneficiary; or
  - (d) is the subject of an application made under regulation 25, 26 or 27 of the 2016 Regulations which has been determined by the registrar in favour of the applicant

(1) Sub-paragraph (bb) was inserted by regulation 42(3) of the European Public Limited-Liability Company (Amendment) Regulations 2009 (S.I. 2009/2400).

(2) Section 853I was inserted by section 92 of the Small Business, Enterprise and Employment Act 2015 (c.26).

and that determination has not ceased to have effect under regulation 31 of those Regulations.”

- (4) In paragraph (3)—
  - (a) in sub-paragraph (a)(v) after “director,” insert “registrable person,”;
  - (b) in sub-paragraph (a)(vii)(bb), after “director” insert “or registrable person”;
  - (c) in sub-paragraph (a)(vii)(cc) omit “and”; and
  - (d) after sub-paragraph (a)(vii) insert—
    - “(viii) where the grounds of the application are those described in paragraph (2)(d), the name and registered number of the company in relation to which the determination was made; and”.
- (5) In paragraph (5)(a)—
  - (a) after the first instance of the word “director” insert “or registrable person”; and
  - (b) after the second instance of the word “director” insert “, registrable person”.

7.—(1) Regulation 14 (appeals) is amended as follows.

- (2) In paragraph (1) for “6(5), 7(5)” substitute “6(8), 7(8)”.
- (3) In paragraph (2) for “leave” substitute “permission”.
- (4) For paragraph (3) substitute—

“(3) No application for such permission may be made after 28 days beginning with the date of the notice under regulation 5(5), 6(8), 7(8), 9(6), 10(5) or 11(5) unless the court is satisfied that there was good reason for the failure of the applicant to seek permission before the end of that period.

(3A) An applicant who seeks permission to appeal must serve written notice of the application on the registrar within 7 days beginning with the date on which the application for permission was issued.”

8. In Schedule 1 (Specified Public Authorities)—
  - (a) after “the Treasury;” insert “the Treasury Solicitor;” and
  - (b) omit “an overseas regulatory authority within the meaning of section 82 of the Companies Act 1989 (request for assistance by overseas regulatory authority);”.
9. In paragraph 4 of Part 1 of Schedule 2 (Conditions for Permitted Disclosure), before “Secret Intelligence Service” insert “National Crime Agency,”.