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DRAFT STATUTORY INSTRUMENTS

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**2016 No.**

**The Register of People with  
Significant Control Regulations 2016**

**PART 6**

**THE PROTECTION OF USUAL RESIDENTIAL ADDRESS INFORMATION**

**Permitted disclosure of usual residential address information by the registrar to specified public authorities**

**22.**—(1) The public authorities<sup>(1)</sup> listed in Schedule 3 (“specified public authorities”) are specified for the purposes of section 243 of the Act (as applied by section 790ZF of the Act).

(2) The conditions specified for the disclosure of information within section 790ZF(2) of the Act by the registrar<sup>(2)</sup> to specified public authorities in accordance with section 243 of the Act (as applied by section 790ZF of the Act) are listed in Part 1 of Schedule 4.

**Permitted disclosure of usual residential address information by the registrar to credit reference agencies**

**23.**—(1) The conditions specified for the disclosure of information within section 790ZF(2) of the Act by the registrar to a credit reference agency<sup>(3)</sup> in accordance with section 243 of the Act (as applied by section 790ZF of the Act) are listed in Part 2 of Schedule 4.

(2) The registrar may rely on a statement delivered to the registrar by a credit reference agency under Part 2 of Schedule 4 as sufficient evidence of the matters stated in it.

**Circumstances where the registrar must refrain from disclosure of usual residential address information**

**24.**—(1) The registrar must not disclose information within section 790ZF(2) of the Act to a credit reference agency if in relation to that information an application has been made under regulation 25, 26 or 27—

- (a) which has not yet been determined by the registrar and has not been withdrawn under regulation 29;
- (b) which has been determined by the registrar in favour of the applicant (but see paragraph (2));
- (c) which was unsuccessful and the period for applying for permission to appeal in regulation 30(3) has not passed;
- (d) which was unsuccessful and an appeal to the court in respect of that application under regulation 30 has not been determined by the court; or

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<sup>(1)</sup> See section 243(7) of the Act for the meaning of “public authority”.

<sup>(2)</sup> See section 1060(3) of the Act for the meaning of “the registrar”.

<sup>(3)</sup> See section 243(7) of the Act for the meaning of “credit reference agency”.

- (e) which was unsuccessful and the applicant has successfully appealed the determination.
- (2) Paragraph (1)(b) does not apply where the determination has ceased to have effect under regulation 31.
- (3) For the purposes of this regulation, an application is made when it has been registered by the registrar.

**Application by an individual requiring the registrar to refrain from disclosing that individual's usual residential address information to a credit reference agency**

**25.**—(1) An individual who is, or proposes to become, a registrable person in relation to a company may make an application to the registrar requiring the registrar to refrain from disclosing to a credit reference agency information within section 790ZF(2) of the Act relating to that individual.

- (2) The grounds on which an application may be made are that—
  - (a) the applicant reasonably believes that there is a serious risk that the applicant, or a person who lives with the applicant, will be subjected to violence or intimidation as a result of the activities of at least one of—
    - (i) the companies in relation to which the applicant is, or proposes to become, a registrable person;
    - (ii) the companies in relation to which the applicant used to be a registrable person;
    - (iii) the limited liability partnerships in relation to which the applicant is, or proposes to become, a registrable person under the 2016 Regulations;
    - (iv) the limited liability partnerships in relation to which the applicant used to be a registrable person under the 2016 Regulations;
    - (v) the limited liability partnerships in relation to which the applicant is or proposes to become a member;
    - (vi) the limited liability partnerships in relation to which the applicant used to be a member;
    - (vii) the companies in relation to which the applicant is, or proposes to become, a director<sup>(4)</sup>;
    - (viii) the companies in relation to which the applicant used to be a director; or
    - (ix) the overseas companies<sup>(5)</sup> of which the applicant is or used to be a director, secretary or permanent representative; or
  - (b) a section 243 decision has been made in respect of the applicant which has not ceased to have effect under regulation 15 of the 2009 Regulations.
- (3) The application must contain—
  - (a) a statement of the grounds on which the application is made;
  - (b) the name and any former name of the applicant;
  - (c) the date of birth of the applicant;
  - (d) the usual residential address of the applicant;
  - (e) the e-mail address of the applicant, if any;
  - (f) the name and registered number of each company in relation to which the applicant is, or proposes to become, a registrable person;

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(4) See section 250 of the Act for the meaning of “director”.

(5) See section 1044 of the Act for the meaning of “overseas company”.

- (g) where the grounds of the application are those described in paragraphs (2)(a)(ii) to (ix), the names and registered numbers of the companies, limited liability partnerships and overseas companies whose activities are relevant to the application; and
- (h) where the grounds of the application are those described in paragraph (2)(b), the name and registered number of the company in relation to which the section 243 decision was made, unless the section 243 decision relates to a proposed company which was never incorporated.

(4) Where the grounds of the application are those described in paragraph (2)(a), the application must be accompanied by evidence which supports the applicant's statement of the grounds on which the application is made.

(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.

**Application by a company requiring the registrar to refrain from disclosing an individual's usual residential address information to a credit reference agency**

**26.—**(1) A company ("the applicant") may make an application to the registrar requiring the registrar to refrain from disclosing to a credit reference agency information within section 790ZF(2) of the Act relating to an individual ("R") who is, or proposes to become, a registrable person in relation to the company.

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

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

- (a) the applicant reasonably believes that there is a serious risk that R, or a person who lives with R, will be subjected to violence or intimidation as a result of the applicant's activities; or
- (b) a section 243 decision has been made in respect of R which has not ceased to have effect under regulation 15 of the 2009 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 registrable person in relation to the company.

(5) The application must contain—

- (a) a statement of the grounds on which the application is made;
- (b) confirmation that R 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 R;
- (g) the date of birth of R;
- (h) the usual residential address of R;
- (i) the e-mail address of R, if any;
- (j) where R is a registrable person in relation to another company, the name and registered number of that company; and

- (k) 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 section 243 decision was made, unless the section 243 decision 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 must determine the application and, within 7 days beginning with the date that the determination is made, send to the applicant and to R notice of the determination.
- (8) Where the application is unsuccessful, the notice under paragraph (7) 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 by a subscriber to a memorandum of association requiring the registrar to refrain from disclosing an individual's usual residential address information to a credit reference agency**

27.—(1) A subscriber to a memorandum of association ("the applicant") may make an application to the registrar requiring the registrar to refrain from disclosing to a credit reference agency information within section 790ZF(2) relating to an individual ("R") who proposes to become, on or after the formation of the company to which the memorandum relates, a registrable person in relation to the company.

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

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

- (a) the applicant reasonably believes that there is a serious risk that R, or a person who lives with R, will be subjected to violence or intimidation as a result of the proposed activities of the company to which the memorandum relates; or
- (b) a section 243 decision has been made in respect of R which has not ceased to have effect under regulation 15 of the 2009 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 registrable person 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 R 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 R;
- (h) the date of birth of R;
- (i) the usual residential address of R;
- (j) the e-mail address of R, if any;
- (k) where R is a registrable person in relation to 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 section 243 decision was made, unless the section 243 decision 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 must determine the application and, within 7 days beginning with the date that the determination is made, send to the applicant and to R notice of the determination.
- (8) Where the application is unsuccessful, the notice under paragraph (7) 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.

### **Matters relating to an application made under regulation 25, 26 or 27**

**28.**—(1) For the purpose of determining an application made under regulation 25, 26 or 27 the registrar may—

- (a) direct that additional information or evidence should be delivered to the registrar;
  - (b) refer any question relating to an assessment of the nature or extent of any risk of violence or intimidation to a relevant body or to any other person the registrar considers may be able to assist in making the assessment; and
  - (c) accept any answer to a question referred under paragraph (1)(b) as providing sufficient evidence of the nature or extent of any risk.
- (2) The registrar must not make available for public inspection—
- (a) any application made under regulation 25, 26 or 27;
  - (b) any documents provided in support of that application;
  - (c) any notice provided under regulation 29 (notice of withdrawal of application);
  - (d) any notice provided under regulation 30(4) (notice of an appeal);
  - (e) any notice provided under regulation 31 (notice that determination no longer wanted); or
  - (f) any representations delivered under regulation 32 (representations as to why determination should not be revoked).

(3) A person who makes an application under regulation 25, 26 or 27 must inform the registrar in writing without delay upon becoming aware of any change to any information or evidence provided to the registrar in connection with the application.

### **Withdrawal of an application made under regulation 25, 26 or 27**

**29.** If a person in relation to whom an application has been made under regulation 25, 26 or 27 that has not yet been determined notifies the registrar in writing that the person no longer wishes the registrar to determine the application, the registrar is not required to determine the application under regulation 25(5), 26(7) or 27(7) (as the case may be).

### **Appealing against a determination made under regulation 25, 26 or 27**

**30.**—(1) Subject to paragraph (2), an applicant who has received notice under regulation 25(5), 26(7) or 27(7) that the applicant's application has been unsuccessful may appeal to the High Court or, in Scotland, the Court of Session on the grounds that the determination—

- (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 may be brought unless the permission of the court has been obtained.
- (3) No application for such permission may be made after 28 days beginning with the date of the notice under regulation 25(5), 26(7) or 27(7) 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.
- (4) 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.
- (5) The court determining an appeal may—
- (a) dismiss the appeal; or
  - (b) quash the determination.
- (6) Where the court quashes a determination it may refer the matter to the registrar with a direction to reconsider it and make a determination in accordance with the findings of the court.

#### **Duration of a determination made under regulation 25, 26 or 27**

- 31.** A determination made under regulation 25(5), 26(7) or 27(7) that an application is successful continues to have effect until—
- (a) either—
    - (i) the person to whom the determination relates; or
    - (ii) that person’s personal representative,
 notifies the registrar in writing that he or she wishes the determination to cease to have effect; or
  - (b) the registrar revokes the determination under regulation 32.

#### **Revocation of a determination made under regulation 25, 26 or 27**

- 32.—**(1) The registrar may revoke a determination made under regulation 25(5), 26(7) or 27(7) that an application is successful if—
- (a) the applicant in relation to the determination or (if different) any person to whom the application relates has been found guilty of an offence under section 1112 of the Act (general false statement offence) in respect of purported compliance with any provision of this Part;
  - (b) the registrar has sent a notice in accordance with paragraph (2) to the applicant in relation to the determination and (if different) the person to whom the determination relates; and
  - (c) the period of 28 days beginning with the date of that notice has expired.
- (2) The notice mentioned in paragraph (1)(b) must inform the addressee—
- (a) of the registrar’s intention to revoke the determination;
  - (b) that the addressee may, within 28 days beginning with the date of the notice, deliver representations in writing to the registrar as to why the registrar should not revoke the determination; and
  - (c) that if the registrar receives such representations within that period, the registrar will have regard to the representations in deciding whether to revoke the determination.

(3) If within the period specified in paragraph (2)(b) the addressee of the notice delivers representations in writing to the registrar as to why the registrar should not revoke the determination, the registrar must have regard to the representations in deciding whether to revoke the determination.

(4) The registrar must send notice of the registrar's decision as to whether to revoke a determination to the applicant in relation to the determination and (if different) the person to whom the determination relates within 7 days beginning with the date of the decision.