
DRAFT STATUTORY INSTRUMENTS

2016 No.

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

PART 7

THE PROTECTION OF SECURED INFORMATION

Circumstances where the registrar must omit secured information from material on the register available for public inspection

33.—(1) The registrar must omit secured information from the material on the register that is available for public inspection if—

- (a) in relation to that information an application has been made under regulation 36, 37 or 38—
 - (i) which has not yet been determined by the registrar and has not been withdrawn under regulation 40;
 - (ii) which has been determined by the registrar in favour of the applicant (but see paragraph (4));
 - (iii) which was unsuccessful and a period of 42 days beginning with the date of the notice sent under regulation 36(5), 37(5) or 38(5) has not passed;
 - (iv) which was unsuccessful and an appeal to the court in respect of that application under regulation 41 has not been determined by the court; or
 - (v) which was unsuccessful and the applicant has successfully appealed the determination; and
- (b) that information is contained in a document delivered to the registrar in which such information is required to be stated and, in the case of a document having more than one part, the information is contained in a part of the document in which such information is required to be stated.

(2) The registrar is not obliged to check documents, other than those described in paragraph (1)(b), to ensure the absence of secured information in relation to which an application under regulation 36, 37 or 38 has been made.

(3) If the secured information in relation to which an application under regulation 36, 37 or 38 is made is available for public inspection on the register at the time that the application is made, the registrar must comply with paragraph (1) as soon as reasonably practicable.

(4) Paragraph (1)(a)(ii) does not apply where the determination has ceased to have effect under regulation 43.

(5) For the purposes of this regulation an application under regulation 36, 37 or 38 is made when it has been registered by the registrar.

Circumstances where the registrar must not use or disclose secured information

34.—(1) Subject to paragraph (3), the registrar must not use or disclose secured information if in relation to that information an application has been made under regulation 36, 37 or 38—

- (a) which has not yet been determined by the registrar and has not been withdrawn under regulation 40;
- (b) which has been determined by the registrar in favour of the applicant (but see paragraph (2));
- (c) which was unsuccessful and a period of 42 days beginning with the date of the notice sent under regulation 36(5), 37(5) or 38(5) has not passed;
- (d) which was unsuccessful and an appeal to the court in respect of that application under regulation 41 has not been determined by the court; or
- (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 43.

(3) Where the prohibition in paragraph (1) applies in relation to secured information, the registrar may—

- (a) use or disclose that secured information for communicating with the person to whom the application under regulation 36, 37 or 38 relates and, if different, the applicant; and
- (b) disclose the secured information to a specified public authority where the conditions specified in Part 1 of Schedule 4 are satisfied.

(4) For the purposes of this regulation an application under regulation 36, 37 or 38 is made when it has been registered by the registrar.

Fee payable for the disclosure by the registrar of secured information

35.—(1) On the disclosure of secured information under regulation 34(3)(b) the specified public authority to which the information is disclosed must pay a fee to the registrar for the disclosure of that information.

(2) The fee payable under paragraph (1) is—

- (a) where the request for secured information by the specified public authority is made by reference to an individual, £5.00 per individual specified in the request; or
- (b) where the request for secured information by the specified public authority is made by reference to a company, £5.00 per company specified in the request.

Application by an individual requiring the registrar to refrain from using or disclosing that individual's secured information

36.—(1) An individual may make an application to the registrar requiring the registrar to refrain from using or disclosing secured information relating to that individual if that individual—

- (a) is a registrable person in relation to a company;
- (b) proposes to become a registrable person in relation to a company; or
- (c) used to be a registrable person in relation to a company.

(2) The grounds on which an application may be made are that the applicant reasonably believes that if that secured information is disclosed by the registrar—

- (a) the activities of that company; or

(b) one or more characteristics or personal attributes of the applicant when associated with that company,
will put the applicant or a person living with the applicant at serious risk of being subjected to violence or intimidation.

(3) The application must—

(a) contain—

- (i) a statement of the grounds on which the application is made;
- (ii) the name and any former name of the applicant;
- (iii) the date of birth of the applicant;
- (iv) the usual residential address of the applicant;
- (v) the e-mail address of the applicant, if any;
- (vi) the name and registered number of the company in relation to which the applicant is, proposes to become, or used to be a registrable person; and
- (vii) if relevant, a statement that in relation to the applicant an application has also been made under regulation 25, 26 or 27 or a determination has been made in relation to an application under regulation 25(5), 26(7) or 27(7) in favour of the applicant; and

(b) be accompanied by evidence which supports the applicant’s statement of the grounds on which the application is made.

(4) Where an individual who is or used to be a registrable person in relation to a company sends an application under paragraph (1) to the registrar in relation to that company, that individual must inform that company of that fact as soon as reasonably practicable.

(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 using or disclosing an individual’s secured information

37.—(1) A company (“the applicant”) may make an application to the registrar requiring the registrar to refrain from using or disclosing secured information relating to an individual (“S”) who—

- (a) is a registrable person;
- (b) proposes to become a registrable person; or
- (c) used to be a registrable person,

in relation to that company.

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

(3) The grounds on which an application may be made are that the applicant reasonably believes that if the secured information is disclosed by the registrar—

- (a) the activities of the applicant; or
- (b) one or more characteristics or personal attributes of S when associated with the applicant,

will put S or a person living with S at serious risk of being subjected to violence or intimidation.

(4) The application must—

(a) contain—

- (i) a statement of the grounds on which the application is made;
 - (ii) confirmation that S consents to the making of the application;
 - (iii) the name and registered number of the applicant;
 - (iv) the address of the registered office of the applicant;
 - (v) the e-mail address of the applicant, if any;
 - (vi) the name and any former name of S;
 - (vii) the date of birth of S;
 - (viii) the usual residential address of S; and
 - (ix) the e-mail address of S, if any; and
- (b) 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 and to S 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 subscriber to a memorandum of association requiring the registrar to refrain from using or disclosing an individual’s secured information

38.—(1) A subscriber to a memorandum of association (“the applicant”) may make an application to the registrar requiring the registrar to refrain from using or disclosing secured information relating to an individual (“S”) 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 S has given consent for the subscriber to make the application on S’s behalf.

(3) The grounds on which an application may be made are that the applicant reasonably believes that if the secured information is disclosed by the registrar—

- (a) the proposed activities of the company to which the memorandum relates; or
- (b) one or more characteristics or personal attributes of S when associated with the company to which the memorandum relates,

will put S or a person living with S at serious risk of being subjected to violence or intimidation.

(4) The application must—

- (a) contain—
 - (i) a statement of the grounds on which the application is made;
 - (ii) confirmation that S consents to the making of the application;
 - (iii) the name and any former name of the applicant;
 - (iv) the usual residential address of the applicant;
 - (v) the e-mail address of the applicant, if any;
 - (vi) the name of the company to which the memorandum relates;
 - (vii) the name and any former name of S;
 - (viii) the date of birth of S;
 - (ix) the usual residential address of S; and

- (x) the e-mail address of S, if any; and
 - (b) 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 and to S 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.

Matters relating to an application made under regulation 36, 37 or 38

39.—(1) For the purpose of determining an application made under regulation 36, 37 or 38 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 that 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 36, 37 or 38;
 - (b) any documents provided in support of that application;
 - (c) any notice provided under regulation 40 (notice of withdrawal of application);
 - (d) any notice provided under regulation 41 (notice of an appeal);
 - (e) any notice provided under regulation 43 (notice that determination no longer wanted);
 - (f) any notice provided under regulation 44 (representations as to why determination should not be revoked); or
 - (g) any notice provided under regulation 46 (notice that a person is no longer a registrable person).

(3) A person who makes an application under regulation 36, 37 or 38 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.

(4) For the purposes of this regulation an application under regulation 36, 37 or 38 is made when it has been registered by the registrar.

Withdrawal of an application made under regulation 36, 37 or 38

40.—(1) If a person in relation to whom an application has been made under regulation 36, 37 or 38 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 36(5), 37(5) or 38(5) (as the case may be).

(2) Where a person in relation to whom an application under regulation 36 or 37 has been made sends a notice to the registrar under paragraph (1), that person must notify the company to which the application related of this fact as soon as reasonably practicable.

(3) Where a person in relation to whom an application under regulation 38 has been made sends a notice to the registrar under paragraph (1), that person must notify the subscriber to the memorandum

of association who made the application and, if incorporated, the company to which the application related of this fact as soon as reasonably practicable.

(4) For the purposes of this regulation an application under regulation 36, 37 or 38 is made when it has been registered by the registrar.

Appealing against an unsuccessful application made under regulation 36, 37 or 38

41.—(1) Subject to paragraph (2), an applicant who has received notice under regulation 36(5), 37(5) or 38(5) 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 36(5), 37(5) or 38(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.

(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.

Unsuccessful determination made under regulation 36, 37 or 38

42.—(1) This regulation applies where the registrar has made a determination in respect of an application made under regulation 36, 37 or 38 that is not in favour of the applicant.

(2) The registrar must make secured information on the register to which the application under regulation 36, 37 or 38 relates available for public inspection—

- (a) where notice of an application for permission to appeal has not been served on the registrar in accordance with regulation 41(4), as soon as reasonably practicable after the end of the period of 42 days beginning with the date of the notice given under regulation 36(5), 37(5) or 38(5); or
- (b) where notice of an application for permission to appeal has been served on the registrar in accordance with regulation 41(4), as soon as reasonably practicable after—
 - (i) the court has dismissed the application for permission to appeal or the appeal and there is no further appeal pending; or
 - (ii) the registrar becomes aware that the application for permission to appeal or the appeal has been subsequently withdrawn or abandoned.

(3) Where the registrar makes secured information available for public inspection on the register under this regulation, the registrar must notify the person to whom the secured information relates and the company to which the application under regulation 36, 37 or 38 related of that action as soon as reasonably practicable.

Duration of a determination under regulation 36, 37 or 38

43.—(1) A determination under regulation 36(5), 37(5) or 38(5) 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 44.

(2) Where a notice is given under paragraph (1)(a), the person giving the notice must also notify the company to which the application that was determined relates of the notice given to the registrar.

Revocation of a determination under regulation 36(5), 37(5) or 38(5)

44.—(1) The registrar may revoke a determination made under regulation 36(5), 37(5) or 38(5) 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) an 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.

(5) Where the registrar has made a decision to revoke a determination, the registrar must make secured information on the register to which the determination relates available for public inspection as soon as reasonably practicable after sending the notice mentioned in paragraph (4).

(6) Where the registrar makes secured information available for public inspection on the register under this regulation, the registrar must notify the person to whom the secured information relates and the company to which the application under regulation 36, 37 or 38 related of that action as soon as reasonably practicable.

Protection by a company of secured information

45.—(1) Subject to paragraph (2), a company must not use or disclose secured information relating to a person (“S”) if—

- (a) in relation to that information an application has been made under regulation 36, 37 or 38; and
 - (b) the company has not received notification under regulation 40(2), 40(3), 42(3), 43(2), 44(6) or 46(5)(b).
- (2) The company may use or disclose secured information relating to S—
- (a) for communicating with S;
 - (b) in order to comply with a requirement of the Act as to particulars to be sent to the registrar; or
 - (c) where S has given consent for the company to use or disclose secured information relating to S.
- (3) For the purposes of this regulation, an application has been made—
- (a) under regulation 36(1)(a) or 36(1)(c) when the applicant has informed the company under regulation 36(4) that the applicant has made an application;
 - (b) under regulation 36(1)(b) when the company has received the particular required by section 790K(1)(i) of the Act in relation to that individual;
 - (c) under regulation 37 when the company sends the application to the registrar; or
 - (d) under regulation 38 when the subscriber to the memorandum sends an application to the registrar.

(4) Where a company is prohibited under paragraph (1) from using or disclosing any secured information, the company’s PSC register is to be treated as not including that information for the purposes of sections 790N(1), 790O(1) and 790O(2) of the Act.