



# Companies Act 1985

## 1985 CHAPTER 6

### PART XXIII

#### OVERSEA COMPANIES

#### CHAPTER I

#### REGISTRATION, ETC.

VALID FROM 01/01/1993

**[<sup>F1</sup>690A Branch registration under the Eleventh Company Law Directive (89/666/EEC).**

- (1) This section applies to any limited company which—
  - (a) is incorporated outside the United Kingdom and Gibraltar, and
  - (b) has a branch in Great Britain.
- (2) Schedule 21A to this Act (Branch registration under the Eleventh Company Law Directive (89/666/EEC)) shall have effect in relation to any company to which this section applies.]

#### Textual Amendments

**F1** Ss. 690A, 690B inserted (1.1.1993) by S.I. 1992/3179, reg. 3, Sch. 2 para.2.

*Status: Point in time view as at 01/11/1991. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects  
for the Companies Act 1985, Part XXIII. (See end of Document for details)*

VALID FROM 01/01/1993

**<sup>F2</sup>690B Scope of sections 691 and 692.**

- Sections 691 and 692 shall not apply to any limited company which—
- (a) is incorporated outside the United Kingdom and Gibraltar, and
  - (b) has a branch in the United Kingdom.

**Textual Amendments**

**F2** Ss. 690A, 690B inserted (1.1.1993) by S.I. 1992/3179, reg. 3, Sch. 2 para.2.

**691 Documents to be delivered to registrar.**

- (1) When a company incorporated outside Great Britain establishes a place of business in Great Britain, it shall within one month of doing so deliver to the registrar of companies for registration—
- (a) a certified copy of the charter, statutes or memorandum and articles of the company or other instrument constituting or defining the company's constitution, and, if the instrument is not written in the English language, a certified translation of it; and
  - (b) a return in the prescribed form containing—
    - (i) a list of the company's directors and secretary, containing the particulars specified in the next subsection,
    - (ii) a list of the names and addresses of some one or more persons resident in Great Britain authorised to accept on the company's behalf service of process and any notices required to be served on it,
    - (iii) a list of the documents delivered in compliance with paragraph (a) of this subsection, and
    - (iv) a statutory declaration (made by a director or secretary of the company or by any person whose name and address are given in the list required by sub-paragraph (ii)), stating the date on which the company's place of business in Great Britain was established.
- <sup>F3</sup>(2) The list referred to in subsection (1)(b)(i) shall contain the following particulars with respect to each director—
- (a) in the case of an individual—
    - (i) his name,
    - (ii) any former name,
    - (iii) his usual residential address,
    - (iv) his nationality,
    - (v) his business occupation (if any),
    - (vi) if he has no business occupation but holds other directorships, particulars of them, and
    - (vii) his date of birth;
  - (b) in the case of a corporation or Scottish firm, its corporate or firm name and registered or principal office.

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- (3) The list referred to in subsection (1)(b)(i) shall contain the following particulars with respect to the secretary (or, where there are joint secretaries, with respect to each of them)—
- (a) in the case of an individual, his name, any former name and his usual residential address;
  - (b) in the case of a corporation or Scottish firm, its corporate or firm name and registered or principal office.

Where all the partners in a firm are joint secretaries of the company, the name and principal office of the firm may be stated instead of the particulars required by paragraph (a).

- (4) In subsections (2)(a) and (3)(a) above—
- (a) “name” means a person’s Christian name (or other forename) and surname, except that in the case of a peer, or an individual usually known by a title, the title may be stated instead of his Christian name (or other forename) and surname, or in addition to either or both of them; and
  - (b) the reference to a former name does not include—
    - (i) in the case of a peer, or an individual normally known by a British title, the name by which he was known previous to the adoption of or succession to the title, or
    - (ii) in the case of any person, a former name which was changed or disused before he attained the age of 18 years or which has been changed or disused for 20 years or more, or
    - (iii) in the case of a married woman, the name by which she was known previous to the marriage.]

#### Textual Amendments

**F3** S. 691(2) substituted (subject to the transitional and saving provisions in S.I. 1990/1707, **art. 6**) by Companies Act 1989 (c. 40, SIF 27), ss. 145, 213(2), **Sch. 19 para. 6**

#### Modifications etc. (not altering text)

**C1** S. 691 modified (1.1.1993) by S.I. 1992/3179, reg. 5, **Sch. 4 para. 1(5)(7)**.

## 692 Registration of altered particulars.

- (1) If any alteration is made in—
- (a) the charter, statutes, or memorandum and articles of an overseas company or any such instrument as is mentioned above, or
  - (b) the directors or secretary of an overseas company or the particulars contained in the list of the directors and secretary, or
  - (c) the names or addresses of the persons authorised to accept service on behalf of an overseas company,

the company shall, within the time specified below, deliver to the registrar of companies for registration a return containing the prescribed particulars of the alteration.

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- (2) If any change is made in the corporate name of an overseas company, the company shall, within the time specified below, deliver to the registrar of companies for registration a return containing the prescribed particulars of the change.
- (3) The time for delivery of the returns required by subsections (1) and (2) is—
- (a) in the case of an alteration to which subsection (1)(c) applies, 21 days after the making of the alteration, and
  - (b) otherwise, 21 days after the date on which notice of the alteration or change in question could have been received in Great Britain in due course of post (if despatched with due diligence).

**Modifications etc. (not altering text)**

**C2** S. 692 modified (1.1.1993) by S.I. 1992/3179, reg. 5, Sch. 4 para. 1(5)(7).

VALID FROM 01/01/1993

**[<sup>F4</sup>692A Change in registration regime.**

- (1) Where a company ceases to be a company to which section 690A applies and, immediately after ceasing to be such a company—
- (a) continues to have in Great Britain a place of business which it had immediately before ceasing to be such a company, and
  - (b) does not have a branch in Northern Ireland,
- it shall be treated for the purposes of section 691 as having established the place of business on the date when it ceased to be a company to which section 690A applies.
- (2) Where a limited company incorporated outside the United Kingdom and Gibraltar—
- (a) ceases to have a branch in Northern Ireland, and
  - (b) both immediately before and immediately after ceasing to do so, has a place of business, but not a branch, in Great Britain,
- it shall be treated for the purposes of section 691 as having established the place of business on the date when it ceased to have a branch in Northern Ireland.
- (3) Where a company—
- (a) becomes a company to which section 690A applies,
  - (b) immediately after becoming such a company, has in a part of Great Britain an established place of business but no branch, and
  - (c) immediately before becoming such a company, had an established place of business in that part,
- sections 691 and 692 shall, in relation to that part, continue to apply to the company (notwithstanding section 690B) until such time as it gives notice to the registrar for that part that it is a company to which that section applies.
- (4) Schedule 21B to this Act (transitional provisions in relation to change in registration regime) shall have effect.]

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#### Textual Amendments

**F4** S. 692A inserted (1.1.1993) by S.I. 1992/3179, reg. 3, Sch. 2 para.4.

### 693 Obligation to state name and other particulars.

Every overseas company shall—

- [<sup>F5</sup>(a) in every prospectus inviting subscriptions for its shares or debentures in Great Britain, state the country in which the company is incorporated,]
- (b) conspicuously exhibit on every place where it carries on business in Great Britain the company's name and the country in which it is incorporated,
- (c) cause the company's name and the country in which it is incorporated to be stated in legible characters in all bill-heads and letter paper, and in all notices and other official publications of the company, and
- (d) if the liability of the members of the company is limited, cause notice of that fact to be stated in legible characters [<sup>F6</sup>in every such prospectus as above mentioned and] in all bill-heads, letter paper, notices and other official publications of the company in Great Britain, and to be affixed on every place where it carries on its business.

#### Textual Amendments

- F5** S. 693(a) repealed by Financial Services Act 1986 (c. 60, SIF 69), s. 212(3), Sch. 17 Pt. I (the repeal being or coming into force as mentioned in S.I. 1986/2246, art. 5, Sch. 4, S.I. 1988/740, art. 2, Sch., S.I. 1988/1960, art. 4 (as amended) and S.I. 1988/2285, art. 5 and being otherwise (*prosp.*))
- F6** Words repealed by Financial Services Act 1986 (c. 60, SIF 69), s. 212(3), Sch. 17 Pt. I (the repeal being or coming into force as mentioned in S.I. 1986/2246, art. 5, Sch. 4, S.I. 1988/740, art. 2, Sch., S.I. 1988/1960, art. 4 (as amended) and S.I. 1988/2285, art. 5 and being otherwise (*prosp.*))

#### Modifications etc. (not altering text)

- C3** S. 693(a) modified by S.I. 1991/823, reg. 2(1), Sch. 1
- C4** S. 693(d) modified by S.I. 1991/823, reg. 2(1), Sch. 1

### 694 Regulation of overseas companies in respect of their names.

- (1) If it appears to the Secretary of State that the corporate name of an overseas company is a name by which the company, had it been formed under this Act, would on the relevant date (defined below in subsection (3)) have been precluded from being registered by section 26 either—
- (a) because it falls within subsection (1) of that section, or
  - (b) if it falls within subsection (2) of that section, because the Secretary of State would not approve the company's being registered with that name,
- the Secretary of State may serve a notice on the company, stating why the name would not have been registered.
- (2) If the corporate name of an overseas company is in the Secretary of State's opinion too like a name appearing on the relevant date in the index of names kept by the registrar of companies under section 714 or which should have appeared in that index on that date, or is the same as a name which should have so appeared, the Secretary of State may

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serve a notice on the company specifying the name in the index which the company's name is too like or which is the same as the company's name.

- (3) No notice shall be served on a company under subsection (1) or (2) later than 12 months after the relevant date, being the date on which the company has complied with—
- (a) section 691 in this Part, or
  - (b) if there has been a change in the company's corporate name, section 692(2).
- (4) An overseas company on which a notice is served under subsection (1) or (2)—
- (a) may deliver to the registrar of companies for registration a statement in the prescribed form specifying a name approved by the Secretary of State other than its corporate name under which it proposes to carry on business in Great Britain, and
  - (b) may, after that name has been registered, at any time deliver to the registrar for registration a statement in the prescribed form specifying a name approved by the Secretary of State (other than its corporate name) in substitution for the name previously registered.
- (5) The name by which an overseas company is for the time being registered under subsection (4) is, for all purposes of the law applying in Great Britain (including this Act and the <sup>M1</sup>Business Names Act 1985), deemed to be the company's corporate name; but—
- (a) this does not affect references to the corporate name in this section, or any rights or obligations of the company, or render defective any legal proceedings by or against the company, and
  - (b) any legal proceedings that might have been continued or commenced against the company by its corporate name or its name previously registered under this section may be continued or commenced against it by its name for the time being so registered.
- (6) An overseas company on which a notice is served under subsection (1) or (2) shall not at any time after the expiration of 2 months from the service of that notice (or such longer period as may be specified in that notice) carry on business in Great Britain under its corporate name.
- Nothing in this subsection or in section 697(2) (which imposes penalties for its contravention) invalidates any transaction entered into by the company.
- (7) The Secretary of State may withdraw a notice served under subsection (1) or (2) at any time before the end of the period mentioned in subsection (6); and that subsection does not apply to a company served with a notice which has been withdrawn.

**Modifications etc. (not altering text)**

**C5** S. 694 extended (with modifications) by S.I. 1989/638, regs. 18, 21, **Sch. 4 para. 14**

**C6** S. 694(4) extended with modifications by **Banking Act 1987 (c. 22, SIF 10)**, **ss. 72(1)(2), 78(1)(2)**

**Marginal Citations**

**M1** 1985 c. 7.

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**[<sup>F7</sup>694A Service of documents: companies to which section 690A applies.**

- (1) This section applies to any company to which section 690A applies.
- (2) Any process or notice required to be served on a company to which this section applies in respect of the carrying on of the business of a branch registered by it under paragraph 1 of Schedule 21A is sufficiently served if—
  - (a) addressed to any person whose name has, in respect of the branch, been delivered to the registrar as a person falling within paragraph 3(e) of that Schedule, and
  - (b) left at or sent by post to the address for that person which has been so delivered.
- (3) Where—
  - (a) a company to which this section applies makes default, in respect of a branch, in delivering to the registrar the particulars mentioned in paragraph 3(e) of Schedule 21A, or
  - (b) all the persons whose names have, in respect of a branch, been delivered to the registrar as persons falling within paragraph 3(e) of that Schedule are dead or have ceased to reside in Great Britain, or refuse to accept service on the company's behalf, or for any reason cannot be served,a document may be served on the company in respect of the carrying on of the business of the branch by leaving it at, or sending it by post to, any place of business established by the company in Great Britain.
- (4) Where a company to which this section applies has more than one branch in Great Britain, any notice or process required to be served on the company which is not required to be served in respect of the carrying on of the business of one branch rather than another shall be treated for the purposes of this section as required to be served in respect of the carrying on of the business of each of its branches.]

**Textual Amendments**

**F7** S. 694A inserted (1.1.1993) by S.I. 1992/3179, reg. 3, Sch. 2 para.8.

**695 Service of documents on overseas company.**

- (1) Any process or notice required to be served on an overseas company is sufficiently served if addressed to any person whose name has been delivered to the registrar under preceding sections in this Part and left at or sent by post to the address which has been so delivered.
- (2) However—
  - (a) where such a company makes default in delivering to the registrar the name and address of a person resident in Great Britain who is authorised to accept on behalf of the company service of process or notices, or

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- (b) if at any time all the persons whose names and addresses have been so delivered are dead or have ceased so to reside, or refuse to accept service on the company's behalf, or for any reason cannot be served,  
 a document may be served on the company by leaving it at, or sending it by post to, any place of business established by the company in Great Britain.

VALID FROM 01/01/1993

**[<sup>F8</sup>695A Registrar to whom documents to be delivered: companies to which section 690A applies.**

- (1) References to the registrar, in relation to a company to which section 690A applies, (except references in Schedule 21C) shall be construed in accordance with the following provisions.
- (2) The documents which a company is required to deliver to the registrar shall be delivered—
  - (a) to the registrar for England and Wales, if required to be delivered in respect of a branch in England and Wales, and
  - (b) to the registrar for Scotland, if required to be delivered in respect of a branch in Scotland.
- (3) If a company closes a branch in a part of Great Britain, it shall forthwith give notice of that fact to the registrar for that part; and from the date on which notice is so given it is no longer obliged to deliver documents to that registrar in respect of that branch.
- (4) In subsection (3) above, the reference to closing a branch in either part of Great Britain includes a reference to a branch ceasing to be situated in that part on becoming situated elsewhere.]

**Textual Amendments**

**F8** S. 695A inserted (1.1.1993) by S.I. 1992/3179, reg. 3, Sch. 2 para.10.

**696** <sup>F9</sup>**Office where documents to be filed.**

- (1) Any document which an overseas company is required to deliver to the registrar of companies shall be delivered to the registrar at the registration office in England and Wales or Scotland, according to where the company has established a place of business.
- (2) If the company has established a place of business both in England and Wales and in Scotland, the document shall be delivered at the registration office both in England and Wales and in Scotland.
- (3) References in this Part to the registrar of companies are to be construed in accordance with the above subsections.
- (4) If an overseas company ceases to have a place of business in either part of Great Britain, it shall forthwith give notice of that fact to the registrar of companies for that part; and



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as from the date on which notice is so given the obligation of the company to deliver any document to the registrar ceases.

#### Textual Amendments

- F9** A new s. 696 commencing “References to” substituted (*prosp.*) for s. 696 commencing “Any document” by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. 145, 213(2), 215(2), [Sch. 19 para. 13](#)

### 697 Penalties for non-compliance.

- (1) If an overseas company fails to comply with any of sections 691 to 693 and 696, the company, and every officer or agent of the company who knowingly and wilfully authorises or permits the default, is liable to a fine and, in the case of a continuing offence, to a daily default fine for continued contravention.
- (2) If an overseas company contravenes section 694(6), the company and every officer or agent of it who knowingly and wilfully authorises or permits the contravention is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.

#### Modifications etc. (not altering text)

- C7** [S. 697\(2\)](#) extended (with modifications) by [S.I. 1989/638](#), regs. 18, 21, [Sch. 4 paras. 15, 16, 17](#)

### 698 Definitions for this Chapter.

For purposes of this Chapter—

- “certified” means certified in the prescribed manner to be a true copy or a correct translation;
- “director”, in relation to an overseas company, includes shadow director; and
- “secretary” includes any person occupying the position of secretary by whatever name called.

### 699 Channel Islands and Isle of Man companies.

- (1) With the exceptions specified in subsection (3) below, the provisions of this Act requiring documents to be forwarded or delivered to or filed with the registrar of companies and applying to companies formed and registered under Part I apply also (if they would not otherwise) to an overseas company incorporated in the Channel Islands or the Isle of Man.
- (2) Those provisions apply to such a company—
  - (a) if it has established a place of business in England and Wales, as if it were registered in England and Wales,
  - (b) if it has established a place of business in Scotland, as if it were registered in Scotland, and
  - (c) if it has established a place of business both in England and Wales and in Scotland, as if it were registered in both England and Wales and Scotland,

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with such modifications as may be necessary and, in particular, apply in a similar way to documents relating to things done outside Great Britain as if they had been done in Great Britain.

(3) The exceptions are—

- section 6(1) (resolution altering company’s objects),
- section 18 (alteration of memorandum or articles by statute or statutory instrument),
- [<sup>F10</sup>section 242(1)] (directors’ duty to file accounts),
- section 288(2) (notice to registrar of change of directors or secretary), and
- section 380 (copies of certain resolutions and agreements to be sent to registrar within 15 days), so far as applicable to a resolution altering a company’s memorandum or articles.

#### Textual Amendments

**F10** Words substituted (subject to the transitional and saving provisions in S.I. 1990/355, arts. 6–9, **Sch. 3 para. 1**) by **Companies Act 1989** (c. 40, SIF 27), ss. 23, 213(2), **Sch. 10 para. 12**

## [<sup>F11</sup>CHAPTER II

### DELIVERY OF ACCOUNTS AND REPORTS]

#### Textual Amendments

**F11** Pt. XXIII Chap. II (ss. 700–703) substituted (subject to the transitional and saving provisions in S.I. 1990/355, arts. 6–9, **Sch. 3 para. 3**) by **Companies Act 1989** (c. 40, SIF 27), ss. 23, 213(2), **Sch. 10 para. 13**

VALID FROM 01/01/1993

#### [<sup>F12</sup>699A Credit and financial institutions to which the Bank Branches Directive (89/117/EEC) applies.

- (1) This section applies to any credit or financial institution—
  - (a) which is incorporated or otherwise formed outside the United Kingdom and Gibraltar,
  - (b) whose head office is outside the United Kingdom and Gibraltar, and
  - (c) which has a branch in Great Britain.
- (2) Schedule 21C (delivery of accounts and reports) shall have effect in relation to any institution to which this section applies.
- (3) In this section—
 

“branch”, in relation to a credit or financial institution, means a place of business which forms a legally dependent part of the institution and which conducts directly all or some of the operations inherent in its business;

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“credit institution” means a credit institution as defined in article 1 of the First Council Directive on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions (77/780/EEC), that is to say an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account;

“financial institution” means a financial institution within the meaning of Article 1 of the Council Directive on the obligations of branches established in a Member State of credit and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents (the Bank Branches Directive, 89/117/EEC); and

“undertaking” has the same meaning as in Part VII.]]

#### Textual Amendments

**F12** S. 699A inserted (1.1.1993) by S.I. 1992/3179, reg. 2(1).

VALID FROM 01/01/1993

#### [<sup>F13</sup>699A] Companies to which the Eleventh Company Law Directive applies.

- (1) This section applies to any limited company which—
  - (a) is incorporated outside the United Kingdom and Gibraltar,
  - (b) has a branch in Great Britain, and
  - (c) is not an institution to which section 699A applies.
- (2) Schedule 21D to this Act (delivery of accounts and reports) shall have effect in relation to any company to which this section applies.]

#### Textual Amendments

**F13** S. 699AA inserted (1.1.1993) by S.I. 1992/3179, reg. 3, Sch. 2 para.16.

VALID FROM 01/01/1993

#### [<sup>F14</sup>699B] Scope of sections 700 to 703.

Sections 700 to 703 shall not apply to any institution to which section 699A applies [<sup>F15</sup>or to any limited company which is incorporated outside the United Kingdom and Gibraltar and has a branch in the United Kingdom]].

#### Textual Amendments

**F14** S. 699B inserted (1.1.1993) by S.I. 1992/3179, reg. 2(1).

**F15** Words in s. 699B inserted (1.1.1993) by S.I. 1992/3179, reg. 3, Sch. 2 para.17.

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## **700 Preparation of accounts and reports by overseas companies.**

- (1) Every overseas company shall in respect of each financial year of the company prepare the like accounts and directors' report, and cause to be prepared such an auditors' report, as would be required if the company were formed and registered under this Act.
- (2) The Secretary of State may by order—
  - (a) modify the requirements referred to in subsection (1) for the purpose of their application to overseas companies;
  - (b) exempt an overseas company from those requirements or from such of them as may be specified in the order.
- (3) An order may make different provision for different cases or classes of case and may contain such incidental and supplementary provisions as the Secretary of State thinks fit.
- (4) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **Modifications etc. (not altering text)**

**C8** S. 700 modified (1.1.1993) by S.I. 1992/3179, reg. 5, **Sch. 4 para. 4(2)**.

**C9** S. 700(1) modified by S.I. 1990/440, art. 2, **Sch.**

## **[<sup>F16</sup>701 Oversea company's financial year and accounting reference periods.**

- (1) Sections 223 to 225 (financial year and accounting reference periods) apply to an overseas company, subject to the following modifications.
- (2) For the references to the incorporation of the company substitute references to the company establishing a place of business in Great Britain.
- (3) Omit section 225(4) (restriction on frequency with which current accounting reference period may be extended).]

### **Textual Amendments**

**F16** Pt. XXIII Chap. II (ss. 700–703) substituted (subject to the transitional and saving provisions in S.I. 1990/355, arts. 6–9, **Sch. 3 para. 3**) by Companies Act 1989 (c. 40, SIF 27), ss. 23, 213(2), **Sch. 10 para. 13**

### **Modifications etc. (not altering text)**

**C10** S. 701 modified (1.1.1993) by S.I. 1992/3179, reg. 5, **Sch. 4 para. 4(2)**.

## **[<sup>F17</sup>702 Delivery to registrar of accounts and reports of overseas company.**

- (1) An overseas company shall in respect of each financial year of the company deliver to the registrar copies of the accounts and reports prepared in accordance with section 700.

If any document comprised in those accounts or reports is in a language other than English, the directors shall annex to the copy delivered a translation of it into English, certified in the prescribed manner to be a correct translation.

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- (2) In relation to an overseas company the period allowed for delivering accounts and reports is 13 months after the end of the relevant accounting reference period.

This is subject to the following provisions of this section.

- (3) If the relevant accounting reference period is the company's first and is a period of more than 12 months, the period allowed is 13 months from the first anniversary of the company's establishing a place of business in Great Britain.
- (4) If the relevant accounting period is treated as shortened by virtue of a notice given by the company under section 225 (alteration of accounting reference date), the period allowed is that applicable in accordance with the above provisions or three months from the date of the notice under that section, whichever last expires.
- (5) If for any special reason the Secretary of State thinks fit he may, on an application made before the expiry of the period otherwise allowed, by notice in writing to an overseas company extend that period by such further period as may be specified in the notice.
- (6) In this section "the relevant accounting reference period" means the accounting reference period by reference to which the financial year for the accounts in question was determined.]

#### Textual Amendments

**F17** Pt. XXIII Chap. II (ss. 700–703) substituted (subject to the transitional and saving provisions in S.I. 1990/355, arts. 6–9, **Sch. 3 para. 3**) by Companies Act 1989 (c. 40, SIF 27), ss. 23, 213(2), **Sch. 10 para. 13**

#### Modifications etc. (not altering text)

**C11** S. 702 modified (1.1.1993) by S.I. 1992/3179, reg. 5, **Sch. 4 para. 4(2)**.

### [<sup>F18</sup>703 Penalty for non-compliance.

- (1) If the requirements of section 702(1) are not complied with before the end of the period allowed for delivering accounts and reports, or if the accounts and reports delivered do not comply with the requirements of this Act, the company and every person who immediately before the end of that period was a director of the company is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.
- (2) It is a defence for a person charged with such an offence to prove that he took all reasonable steps for securing that the requirements in question would be complied with.
- (3) It is not a defence in relation to a failure to deliver copies to the registrar to prove that the documents in question were not in fact prepared as required by this Act.]

#### Textual Amendments

**F18** Pt. XXIII Chap. II (ss. 700–703) substituted (subject to the transitional and saving provisions in S.I. 1990/355, arts. 6–9, **Sch. 3 para. 3**) by Companies Act 1989 (c. 40, SIF 27), ss. 23, 213(2), **Sch. 10 para. 13**

*Status: Point in time view as at 01/11/1991. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Companies Act 1985, Part XXIII. (See end of Document for details)*

**Modifications etc. (not altering text)**

**C12** S. 703 modified (1.1.1993) by S.I. 1992/3179, reg. 5, **Sch. 4 para. 4(2)**.

VALID FROM 01/10/2009

<sup>F19</sup>**CHAPTER III**

REGISTRATION OF CHARGES

**Textual Amendments**

**F19** Ss. 651-706 repealed (1.10.2009) by Companies Act 2006 (c. 46), ss. 1295, 1300, **Sch. 16**; S.I. 2008/2860, **art. 4**, **Sch. 1** (with arts. 5, 7, 8, **Sch. 2** (as amended by S.I. 2009/1802, art. 18, **Sch.**))

**703A** [<sup>F20</sup> **Introductory provisions.**]

- (1) The provisions of this Chapter have effect for securing the registration in Great Britain of charges on the property of a registered overseas company.
- (2) Section 395(2) and (3) (meaning of “charge” and “property”) have effect for the purposes of this Chapter.
- (3) A “registered overseas company”, in relation to England and Wales or Scotland, means an overseas company which has duly delivered documents to the registrar for that part of Great Britain under section 691 and has not subsequently given notice to him under section 696(4) that it has ceased to have an established place of business in that part.
- (4) References in this Chapter to the registrar shall be construed in accordance with section 703E below and references to registration, in relation to a charge, are to registration in the register kept by him under this Chapter.

**Textual Amendments**

**F20** Part XXIII Chap. III (ss. 703A–703N) inserted (*prosp.*) by Companies Act 1989 (c. 40, SIF 27), ss. 105, 213(2), 215(2), **Sch. 15** (in place of sections 409 and 424 as mentioned in s. 92 of the 1989 Act)

**[<sup>F20</sup> 703B Charges requiring registration.**

- (1) The charges requiring registration under this Chapter are those which if created by a company registered in Great Britain would require registration under Part XII of this Act.
- (2) Whether a charge is one requiring registration under this Chapter shall be determined—
  - (a) in the case of a charge over property of a company at the date it delivers documents for registration under section 691, as at that date,

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**Changes to legislation:** There are currently no known outstanding effects for the Companies Act 1985, Part XXIII. (See end of Document for details)

- (b) in the case of a charge created by a registered overseas company, as at the date the charge is created, and
- (c) in the case of a charge over property acquired by a registered overseas company, as at the date of the acquisition.

- (3) In the following provisions of this Chapter references to a charge are, unless the context otherwise requires, to a charge requiring registration under this Chapter.

Where a charge not otherwise requiring registration relates to property by virtue of which it requires to be registered and to other property, the references are to the charge so far as it relates to property of the former description.]

#### Textual Amendments

**F20** Part XXIII Chap. III (ss. 703A–703N) inserted (*prosp.*) by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. 105, 213(2), 215(2), [Sch. 15](#) (in place of sections 409 and 424 as mentioned in s. 92 of the 1989 Act)

#### [<sup>F21</sup>703C] The register.

- (1) The registrar shall keep for each registered overseas company a register, in such form as he thinks fit, of charges on property of the company.
- (2) The register shall consist of a file containing with respect to each such charge the particulars and other information delivered to the registrar under or by virtue of the following provisions of this Chapter.
- (3) Section 397(3) to (5) (registrar’s certificate as to date of delivery of particulars) applies in relation to the delivery of any particulars or other information under this Chapter.]

#### Textual Amendments

**F21** Part XXIII Chap. III (ss. 703A–703N) inserted (*prosp.*) by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. 105, 213(2), 215(2), [Sch. 15](#) (in place of sections 409 and 424 as mentioned in s. 92 of the 1989 Act)

#### [<sup>F22</sup>703D] Company’s duty to deliver particulars of charges for registration.

- (1) If when an overseas company delivers documents for registration under section 691 any of its property is situated in Great Britain and subject to a charge, it is the company’s duty at the same time to deliver the prescribed particulars of the charge, in the prescribed form, to the registrar for registration.
- (2) Where a registered overseas company—
  - (a) creates a charge on property situated in Great Britain, or
  - (b) acquires property which is situated in Great Britain and subject to a charge,it is the company’s duty to deliver the prescribed particulars of the charge, in the prescribed form, to the registrar for registration within 21 days after the date of the charge’s creation or, as the case may be, the date of the acquisition.

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This subsection does not apply if the property subject to the charge is at the end of that period no longer situated in Great Britain.

- (3) Where the preceding subsections do not apply and property of a registered overseas company is for a continuous period of four months situated in Great Britain and subject to a charge, it is the company's duty before the end of that period to deliver the prescribed particulars of the charge, in the prescribed form, to the registrar for registration.
- (4) Particulars of a charge required to be delivered under subsections (1), (2) or (3) may be delivered for registration by any person interested in the charge.
- (5) If a company fails to comply with subsection (1), (2) or (3), then, unless particulars of the charge have been delivered for registration by another person, the company and every officer of it who is in default is liable to a fine.
- (6) Section 398(2), (4) and (5) (recovery of fees paid in connection with registration, filing of particulars in register and sending of copy of particulars filed and note as to date) apply in relation to particulars delivered under this Chapter.]

#### Textual Amendments

**F22** Part XXIII Chap. III (ss. 703A–703N) inserted (*prosp.*) by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. [105](#), [213\(2\)](#), [215\(2\)](#), [Sch. 15](#) (in place of sections 409 and 424 as mentioned in s. 92 of the 1989 Act)

#### <sup>F23</sup>703E Registrar to whom particulars, &c. to be delivered.

- (1) The particulars required to be delivered by section 703D(1) (charges over property of overseas company becoming registered in a part of Great Britain) shall be delivered to the registrar to whom the documents are delivered under section 691.
- (2) The particulars required to be delivered by section 703D(2) or (3) (charges over property of registered overseas company) shall be delivered—
  - (a) if the company is registered in one part of Great Britain and not in the other, to the registrar for the part in which it is registered, and
  - (b) if the company is registered in both parts of Great Britain but the property subject to the charge is situated in one part of Great Britain only, to the registrar for that part;
 and in any other case the particulars shall be delivered to the registrars for both parts of Great Britain.
- (3) Other documents required or authorised by virtue of this Chapter to be delivered to the registrar shall be delivered to the registrar or registrars to whom particulars of the charge to which they relate have been, or ought to have been, delivered.
- (4) If a company gives notice under section 696(4) that it has ceased to have an established place of business in either part of Great Britain, charges over property of the company shall cease to be subject to the provisions of this Chapter, as regards registration in that part of Great Britain, as from the date on which notice is so given.

This is without prejudice to rights arising by reason of events occurring before that date.]



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**Changes to legislation:** There are currently no known outstanding effects for the Companies Act 1985, Part XXIII. (See end of Document for details)

#### Textual Amendments

**F23** Part XXIII Chap. III (ss. 703A–703N) inserted (*prosp.*) by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. 105, 213(2), 215(2), [Sch. 15](#) (in place of sections 409 and 424 as mentioned in s. 92 of the 1989 Act)

#### [<sup>F24</sup>703F Effect of failure to deliver particulars, late delivery and effect of errors and omissions.

- (1) The following provisions of Part XII—
  - (a) section 399 (effect of failure to deliver particulars),
  - (b) section 400 (late delivery of particulars), and
  - (c) section 402 (effect of errors and omissions in particulars delivered),apply, with the following modifications, in relation to a charge created by a registered overseas company of which particulars are required to be delivered under this Chapter.
- (2) Those provisions do not apply to a charge of which particulars are required to be delivered under section 703D(1) (charges existing when company delivers documents under section 691).
- (3) In relation to a charge of which particulars are required to be delivered under section 703D(3) (charges registrable by virtue of property being within Great Britain for requisite period), the references to the period of 21 days after the charge’s creation shall be construed as references to the period of four months referred to in that subsection.]

#### Textual Amendments

**F24** Part XXIII Chap. III (ss. 703A–703N) inserted (*prosp.*) by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. 105, 213(2), 215(2), [Sch. 15](#) (in place of sections 409 and 424 as mentioned in s. 92 of the 1989 Act)

#### [<sup>F25</sup>703G Delivery of further particulars or memorandum.

Sections 401 and 403 (delivery of further particulars and memorandum of charge ceasing to affect company’s property) apply in relation to a charge of which particulars have been delivered under this Chapter.]

#### Textual Amendments

**F25** Part XXIII Chap. III (ss. 703A–703N) inserted (*prosp.*) by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. 105, 213(2), 215(2), [Sch. 15](#) (in place of sections 409 and 424 as mentioned in s. 92 of the 1989 Act)

#### [<sup>F26</sup>703H Further provisions with respect to voidness of charges.

- (1) The following provisions of Part XII apply in relation to the voidness of a charge by virtue of this Chapter—
  - (a) section 404 (exclusion of voidness as against unregistered charges),

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- (b) section 405 (restrictions on cases in which charge is void),
- (c) section 406 (effect of exercise of power of sale), and
- (d) section 407 (effect of voidness on obligation secured).

- (2) In relation to a charge of which particulars are required to be delivered under section 703D(3) (charges registrable by virtue of property being within Great Britain for requisite period), the reference in section 404 to the period of 21 days after the charge's creation shall be construed as a reference to the period of four months referred to in that subsection.]

#### Textual Amendments

**F26** Part XXIII Chap. III (ss. 703A–703N) inserted (*prosp.*) by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. 105, 213(2), 215(2), [Sch. 15](#) (in place of sections 409 and 424 as mentioned in s. 92 of the 1989 Act)

#### [<sup>F27</sup>703I Additional information to be registered.

- (1) Section 408 (particulars of taking up of issue of debentures) applies in relation to a charge of which particulars have been delivered under this Chapter.
- (2) Section 409 (notice of appointment of receiver or manager) applies in relation to the appointment of a receiver or manager of property of a registered overseas company.
- (3) Regulations under section 410 (notice of crystallisation of floating charge, &c.) may apply in relation to a charge of which particulars have been delivered under this Chapter; but subject to such exceptions, adaptations and modifications as may be specified in the regulations.]

#### Textual Amendments

**F27** Part XXIII Chap. III (ss. 703A–703N) inserted (*prosp.*) by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. 105, 213(2), 215(2), [Sch. 15](#) (in place of sections 409 and 424 as mentioned in s. 92 of the 1989 Act)

#### [<sup>F28</sup>703J Copies of instruments and register to be kept by company.

- (1) Sections 411 and 412 (copies of instruments and register to be kept by company) apply in relation to a registered overseas company and any charge over property of the company situated in Great Britain.
- (2) They apply to any charge, whether or not particulars are required to be delivered to the registrar.
- (3) In relation to such a company the references to the company's registered office shall be construed as references to its principal place of business in Great Britain.]

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**Changes to legislation:** There are currently no known outstanding effects for the Companies Act 1985, Part XXIII. (See end of Document for details)

#### Textual Amendments

**F28** Part XXIII Chap. III (ss. 703A–703N) inserted (*prosp.*) by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. 105, 213(2), 215(2), [Sch. 15](#) (in place of sections 409 and 424 as mentioned in s. 92 of the 1989 Act)

#### [<sup>F29</sup>703K Power to make further provision by regulations.

- (1) The Secretary of State may by regulations make further provision as to the application of the provisions of this Chapter, or the provisions of Part XII applied by this Chapter, in relation to charges of any description specified in the regulations.
- (2) The regulations may apply any provisions of regulations made under section 413 (power to make further provision with respect to application of Part XII) or make any provision which may be made under that section with respect to the application of provisions of Part XII.]

#### Textual Amendments

**F29** Part XXIII Chap. III (ss. 703A–703N) inserted (*prosp.*) by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. 105, 213(2), 215(2), [Sch. 15](#) (in place of sections 409 and 424 as mentioned in s. 92 of the 1989 Act)

#### [<sup>F30</sup>703L Provisions as to situation of property.

- (1) The following provisions apply for determining for the purposes of this Chapter whether a vehicle which is the property of an overseas company is situated in Great Britain—
  - (a) a ship, aircraft or hovercraft shall be regarded as situated in Great Britain if, and only if, it is registered in Great Britain;
  - (b) any other description of vehicle shall be regarded as situated in Great Britain on a day if, and only if, at any time on that day the management of the vehicle is directed from a place of business of the company in Great Britain;and for the purposes of this Chapter a vehicle shall not be regarded as situated in one part of Great Britain only.
- (2) For the purposes of this Chapter as it applies to a charge on future property, the subject-matter of the charge shall be treated as situated in Great Britain unless it relates exclusively to property of a kind which cannot, after being acquired or coming into existence, be situated in Great Britain; and references to property situated in a part of Great Britain shall be similarly construed.]

#### Textual Amendments

**F30** Part XXIII Chap. III (ss. 703A–703N) inserted (*prosp.*) by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. 105, 213(2), 215(2), [Sch. 15](#) (in place of sections 409 and 424 as mentioned in s. 92 of the 1989 Act)

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### **[<sup>F31</sup>703M] Other supplementary provisions.**

- (1) The following provisions of Part XII apply for the purposes of this Chapter—
- (a) section 414 (construction of references to date of creation of charge),
  - (b) section 415 (prescribed particulars and related expressions),
  - (c) section 416 (notice of matters disclosed on the register),
  - (d) section 417 (power of court to dispense with signature),
  - (e) section 418 (regulations) and
  - (f) section 419 (minor definitions).]

#### **Textual Amendments**

**F31** Part XXIII Chap. III (ss. 703A–703N) inserted (*prosp.*) by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. [105](#), [213\(2\)](#), [215\(2\)](#), [Sch. 15](#) (in place of sections 409 and 424 as mentioned in s. 92 of the 1989 Act)

### **[<sup>F32</sup>703N] Index of defined expressions.**

The following Table shows the provisions of this Chapter and Part XII defining or otherwise explaining expressions used in this Chapter (other than expressions used only in the same section)—

charge	sections 703A(2), 703B(3) and 395(2)
charge requiring registration	sections 703B(1) and 396
creation of charge	sections 703M(f) and 419(2)
date of acquisition (of property by a company)	sections 703M(f) and 419(3)
date of creation of charge	sections 703M(a) and 414
property	sections 703A(2) and 395(2)
registered overseas company	section 703A(3)
registrar and registration in relation to a charge	sections 703A(4) and 703E
situated in Great Britain in relation to vehicles	section 703L(1)
in relation to future property	section 703L(2)]

#### **Textual Amendments**

**F32** Part XXIII Chap. III (ss. 703A–703N) inserted (*prosp.*) by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. [105](#), [213\(2\)](#), [215\(2\)](#), [Sch. 15](#) (in place of sections 409 and 424 as mentioned in s. 92 of the 1989 Act)

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**Changes to legislation:** There are currently no known outstanding effects for the Companies Act 1985, Part XXIII. (See end of Document for details)

VALID FROM 01/01/1993

## [<sup>F33</sup>CHAPTER IV

### WINDING UP ETC.]

#### Textual Amendments

**F33** Chapter IV (ss. 703O-703R) inserted (1.1.1993) by S.I. 1992/3179, reg. 3, Sch. 2 para.19.

#### <sup>F34</sup>**703O Scope of Chapter.**

This Chapter applies to any company to which section 690A applies.

#### Textual Amendments

**F34** S. 703O inserted (1.1.1993) by S.I. 1992/3179, reg. 3, Sch. 2 para.19.

#### <sup>F35</sup>**703P Particulars to be delivered to the registrar: winding up.**

- (1) Subject to subsection (8), where a company to which this Chapter applies is being wound up, it shall deliver to the registrar for registration a return in the prescribed form containing the following particulars—
  - (a) the name of the company;
  - (b) whether the company is being wound up by an order of a court and, if so, the name and address of the court and the date of the order;
  - (c) if the company is not being so wound up, as a result of what action the winding up has commenced;
  - (d) whether the winding up has been instigated by:
    - (i) the company's members;
    - (ii) the company's creditors; or
    - (iii) some other person or persons,and, in the case of (iii) the identity of that person or those persons shall be given; and
  - (e) the date on which the winding up became or will become effective.
- (2) The period allowed for delivery of a return under subsection (1) above is 14 days from the date on which the winding up begins.
- (3) Subject to subsection (8), a person appointed to be the liquidator of a company to which this Chapter applies shall deliver to the registrar for registration a return in the prescribed form containing the following particulars—
  - (a) his name and address,
  - (b) the date of his appointment, and
  - (c) a description of such of his powers, if any, as are derived otherwise than from the general law or the company's constitution.

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- (4) The period allowed for delivery of a return under subsection (3) above is 14 days from the date of the liquidator's appointment.
- (5) Subject to subsection (8), the liquidator of a company to which this Chapter applies shall deliver to the registrar for registration a return in the prescribed form upon the occurrence of the following events—
- (a) the termination of the winding up of the company, and
  - (b) the company ceasing to be registered, in circumstances where ceasing to be registered is an event of legal significance.
- The following particulars shall be given:
- (i) in the case of (a), the name of the company and the date on which the winding up terminated; and
  - (ii) in the case of (b), the name of the company and the date on which the company ceased to be registered.
- (6) The period allowed for delivery of a return under subsection (5) is 14 days from the date of the event concerned.
- (7) The obligation to deliver a return under subsection (1), (3) or (5) above shall apply in respect of each branch which the company has in Great Britain (though where the company has more than one branch in a part of Great Britain a return which gives the branch numbers of two or more such branches is to be regarded as a return in respect of each branch whose number is given).
- (8) No return is required under subsection (1), (3), or (5) above in respect of a winding up under Part V of the Insolvency Act 1986.<sup>M2</sup>

#### Textual Amendments

**F35** S. 703P inserted (1.1.1993) by S.I. 1992/3179, reg. 3, Sch. 2 para.19.

#### Marginal Citations

**M2** 1986 c. 45.

#### <sup>F36</sup>**703Q** Particulars to be delivered to the registrar: insolvency proceedings etc.

- (1) Where a company to which this Chapter applies becomes subject to any of the following proceedings (other than proceedings for the winding up of the company), that is to say, insolvency proceedings or an arrangement or composition or any analogous proceedings, it shall deliver to the registrar for registration a return in the prescribed form containing the following particulars—
- (a) the name of the company;
  - (b) whether the proceedings are by order of a court and, if so, the name and address of the court and the date of the order;
  - (c) if the proceedings are not by order of a court, as a result of what action the proceedings have been commenced;
  - (d) whether the proceedings have been instigated by:
    - (i) the company's members;
    - (ii) the company's creditors; or
    - (iii) some other person or persons,

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- and, in the case of (iii) the identity of that person or those persons shall be given; and
- (e) the date on which the proceedings became or will become effective.
- (2) Where a company to which this Chapter applies ceases to be subject to any of the proceedings mentioned in subsection (1) it shall deliver to the registrar for registration a return in the prescribed form containing the following particulars:
- (a) the name of the company; and
- (b) the date on which it ceased to be subject to the proceedings.
- (3) The period allowed for delivery of a return under subsection (1) or (2) is 14 days from the date on which the company becomes subject, or (as the case may be) ceases to be subject to the proceedings concerned.
- (4) The obligation to deliver a return under subsection (1) or (2) shall apply in respect of each branch which the company has in Great Britain (though where the company has more than one branch in a part of Great Britain a return which gives the branch numbers of two or more such branches is to be regarded as a return in respect of each branch whose number is given).

#### Textual Amendments

**F36** S. 703Q inserted (1.1.1993) by S.I. 1992/3179, reg. 3, Sch. 2 para.19.

#### <sup>F37</sup>703R Penalty for non-compliance

- (1) If a company fails to comply with section 703P(1) or 703Q(1) or (2) within the period allowed for compliance, it, and every person who immediately before the end of that period was a director of it, is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.
- (2) If a liquidator fails to comply with section 703P(3) or (5) within the period allowed for compliance, he is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.
- (3) It is a defence for a person charged with an offence under this section to prove that he took all reasonable steps for securing compliance with the requirements concerned.

#### Textual Amendments

**F37** S. 703R inserted (1.1.1993) by S.I. 1992/3179, reg. 3, Sch. 2 para.19.

**Status:**

Point in time view as at 01/11/1991. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Companies Act 1985, Part XXIII.