
STATUTORY INSTRUMENTS

2009 No. 1804

**The Limited Liability Partnerships (Application
of Companies Act 2006) Regulations 2009**

[^{F1}PART 8A

AN LLP'S REGISTER OF PEOPLE WITH SIGNIFICANT CONTROL

[^{F1}Schedule 1A

31M. Paragraphs 1 to 24 of Schedule 1A apply to LLPs, modified so that they read as follows

“SCHEDULE 1A

Section 790C(3)

REFERENCES TO PEOPLE WITH SIGNIFICANT CONTROL OVER AN LLP

PART 1

The specified conditions

Introduction

1. This Part of this Schedule specifies the conditions at least one of which must be met by an individual (“X”) in relation to an LLP (“LLP Y”) in order for the individual to be a person with “significant control” over LLP Y.

Right to share in surplus assets on a winding up

2.—(1) The first condition is that X holds, directly or indirectly, the right to share in more than 25% of any surplus assets of LLP Y on a winding up.

(2) For the purpose of sub-paragraph (1), to the extent that the holding of a right to share in any surplus assets of LLP Y on a winding up is not expressly provided for, each member of the LLP shall be treated as holding the right to an equal share in any surplus assets on a winding up.

Ownership of voting rights

3. The second condition is that X holds, directly or indirectly, more than 25% of the rights to vote on those matters which are to be decided upon by a vote of the members of LLP Y.

Ownership of right to appoint or remove the persons entitled to manage the LLP

4.—(1) The third condition is that X holds, directly or indirectly, the right to appoint or remove the majority of the persons who are entitled to take part in the management of LLP Y.

(2) For the purposes of sub-paragraph (1), the right to appoint or remove a majority of the persons who are entitled to take part in the management of LLP Y includes the right to appoint or remove those persons who hold a majority of the voting rights at meetings of the management body of LLP Y.

Significant influence or control

5. The fourth condition is that X has the right to exercise, or actually exercises, significant influence or control over LLP Y.

Trusts, partnerships etc

6. The fifth condition is that—
- (a) the trustees of a trust or the members of a firm that, under the law by which it is governed, is not a legal person meet any of the other specified conditions (in their capacity as such) in relation to LLP Y, or would do so if they were individuals, and
 - (b) X has the right to exercise, or actually exercises, significant influence or control over the activities of that trust or firm.

PART 2

Holding an interest in an LLP, etc.

Introduction

7. This Part of this Schedule specifies the circumstances in which, for the purposes of section 790C(4) or (8)—

- (a) a person (“V”) is to be regarded as holding an interest in an LLP (“LLP W”);
- (b) an interest held by V in LLP W is to be regarded as held through a legal entity.

Holding an interest

- 8.—(1) V holds an interest in LLP W if—
- (a) V holds, directly or indirectly, the right to share in any surplus assets of LLP W on a winding up;
 - (b) V holds, directly or indirectly, voting rights in LLP W;
 - (c) V holds, directly or indirectly, the right to appoint or remove any of the persons entitled to take part in the management of LLP W;
 - (d) V has the right to exercise, or actually exercises, significant influence or control over LLP W; or
 - (e) sub-paragraph (2) is satisfied.
- (2) This sub-paragraph is satisfied where—
- (a) the trustees of a trust or the members of a firm that, under the law by which it is governed, is not a legal person hold an interest in LLP W in a way mentioned in sub-paragraph (1)(a) to (d), and
 - (b) V has the right to exercise, or actually exercises, significant influence or control over the activities of that trust or firm.

Interests held through a legal entity

- 9.—(1) This paragraph applies where V—
- (a) holds an interest in LLP W by virtue of indirectly holding a right, and
 - (b) does so by virtue of having a majority stake (see paragraph 13) in—
 - (i) a legal entity (“L”) which holds the right directly, or
 - (ii) a legal entity that is part of a chain of legal entities such as is described in paragraph 13(1)(b) that includes L.
- (2) Where this paragraph applies, V holds the interest in LLP W—
- (a) through L, and
 - (b) through each other legal entity in the chain mentioned in sub-paragraph (1)(b)(ii).

PART 3

Supplementary provision

Introduction

10. This Part sets out rules for the interpretation of this Schedule subject to the fact that paragraph 21(1) does not apply to the interpretation of paragraph 2 of Part 1.

Joint interests

11. If two or more persons each hold a share or right jointly, each of them is treated for the purposes of this Schedule as holding that share or right.

Joint arrangements

12.—(1) If shares or rights held by a person and shares or rights held by another person are the subject of a joint arrangement between those persons, each of them is treated for the purposes of this Schedule as holding the combined shares or rights of both of them.

(2) A “joint arrangement” is an arrangement between the holders of shares (or rights) that they will exercise all or substantially all the rights conferred by their respective shares (or rights) jointly in a way that is pre-determined by the arrangement.

(3) “Arrangement” has the meaning given by paragraph 20.

Shares or rights held “indirectly”

13.—(1) A person holds a right “indirectly” if the person has a majority stake in a legal entity and that entity—

- (a) holds that right, or
 - (b) is part of a chain of legal entities—
 - (i) each of which (other than the last) has a majority stake in the entity immediately below it in the chain, and
 - (ii) the last of which holds that right.
- (2) For these purposes, A has a “majority stake” in B if—
- (a) A holds a majority of the voting rights in B,

- (b) A is a member of B and has the right to appoint or remove a majority of the board of directors of B,
 - (c) A is a member of B and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in B, or
 - (d) A has the right to exercise, or actually exercises, dominant influence or control over B.
- (3) In the application of this paragraph to the right to appoint or remove a majority of the board of directors, a legal entity is to be treated as having the right to appoint a director if—
- (a) a person’s appointment as director follows necessarily from that person’s appointment as director of the legal entity, or
 - (b) the directorship is held by the legal entity itself.

14.—(1) For the purposes of paragraph 13, a reference to the voting rights in a legal entity is to the rights conferred on shareholders in respect of their shares (or, in the case of an entity not having a share capital, on members) to vote at general meetings of the entity on all or substantially all matters.

(2) In relation to a legal entity that does not have general meetings at which matters are decided by the exercise of voting rights a reference to exercising voting rights in the entity is to be read as a reference to exercising rights in relation to the entity that are equivalent to those of a person entitled to exercise voting rights in a company.

15. In applying paragraph 13, the voting rights in a legal entity are to be reduced by any rights held by the entity itself.

16. A reference in paragraph 13 to the right to appoint or remove a majority of the board of directors of a legal entity is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all or substantially all matters.

17. References in paragraph 13 to a board of directors, in the case of an entity that does not have such a board, are to be read as references to the equivalent management body of that entity.

Shares and rights held by nominees

18. A share or right held by a person as nominee for another is to be treated for the purposes of this Schedule as held by the other (and not by the nominee).

Rights treated as held by person who controls their exercise

19.—(1) Where a person controls a right, the right is to be treated for the purposes of this Schedule as held by that person (and not by the person who in fact holds the right, unless that person also controls it).

(2) A person “controls” a right if, by virtue of any arrangement between that person and others, the right is exercisable only—

- (a) by that person,
- (b) in accordance with that person’s directions or instructions, or
- (c) with that person’s consent or concurrence.

20.—(1) “Arrangement” includes—

- (a) any scheme, agreement or understanding, whether or not it is legally enforceable, and
- (b) any convention, custom or practice of any kind.

(2) But something does not count as an arrangement unless there is at least some degree of stability about it (whether by its nature or terms, the time it has been in existence or otherwise).

Rights exercisable only in certain circumstances etc

21.—(1) Rights that are exercisable only in certain circumstances are to be taken into account only—

- (a) when the circumstances have arisen, and for so long as they continue to obtain, or
- (b) when the circumstances are within the control of the person having the rights.

(2) But rights that are exercisable by an administrator or by creditors while a legal entity is in relevant insolvency proceedings are not to be taken into account even while the entity is in those proceedings.

(3) “Relevant insolvency proceedings” means—

- (a) administration within the meaning of the Insolvency Act 1986,
- (b) administration within the meaning of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or
- (c) proceedings under the insolvency law of another country or territory during which an entity’s assets and affairs are subject to the control or supervision of a third party or creditor.

(4) Rights that are normally exercisable but are temporarily incapable of exercise are to continue to be taken into account.

Rights attached to shares held by way of security

22. Rights attached to shares held by way of security provided by a person are to be treated for the purposes of this Schedule as held by that person—

- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person’s instructions, and
- (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in that person’s interests.

Significant influence or control

23.—(1) The Secretary of State must issue guidance about the meaning of “significant influence or control” for the purposes of this Schedule.

(2) Regard must be had to that guidance in interpreting references in this Schedule to “significant influence or control”.

(3) Before issuing guidance under this paragraph the Secretary of State must lay a draft of it before Parliament.

(4) If, within the 40-day period, either House of Parliament resolves not to approve the draft guidance, the Secretary of State must take no further steps in relation to it.

(5) If no such resolution is made within that period, the Secretary of State must issue and publish the guidance in the form of the draft.

(6) Sub-paragraph (4) does not prevent a new draft of proposed guidance from being laid before Parliament.

(7) In this section “the 40-day period”, in relation to draft guidance, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House on the same day, the later of the days on which it is laid).

(8) In calculating the 40-day period, no account is to be taken of any period during which—

- (a) Parliament is dissolved or prorogued, or
- (b) both Houses are adjourned for more than 4 days.

(9) The Secretary of State may revise guidance issued under this paragraph, and a reference in this paragraph to guidance includes a reference to revised guidance.

Limited partnerships

24.—(1) An individual does not meet the specified condition in paragraphs 2, 3, 4, 5 or 6 in relation to an LLP by virtue only of being a limited partner.

(2) An individual does not meet the specified condition in paragraphs 2, 3, 4, 5 or 6 in relation to an LLP by virtue only of, directly or indirectly—

- (a) holding shares, or
- (b) holding a right,

in or in relation to a limited partner which (in its capacity as such) would meet the condition if it were an individual.

(3) Sub-paragraphs (1) and (2) do not apply for the purposes of determining whether the requirement set out in paragraph (a) of the specified condition in paragraph 6 is met.

(4) In this paragraph “limited partner” means—

- (a) a limited partner in a limited partnership registered under the Limited Partnerships Act 1907 (other than one who takes part in the management of the partnership business), or
- (b) a foreign limited partner.

(5) In this paragraph “foreign limited partner” means an individual who—

- (a) participates in arrangements established under the law of a country or territory outside the United Kingdom, and
- (b) has the characteristics prescribed by regulation 8 of the PSC Regulations.”]

Textual Amendments

F1 Pt. 8A inserted (6.4.2016 except paras. 31E and 31K for specified purposes which come into force otherwise at 30.6.2016) by [The Limited Liability Partnerships \(Register of People with Significant Control\) Regulations 2016 \(S.I. 2016/340\)](#), reg. 1(2)(3), [Sch. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009, Section 31M.