
STATUTORY INSTRUMENTS

2009 No. 1917

**The Overseas Companies (Execution of Documents
and Registration of Charges) Regulations 2009**

PART 1

INTRODUCTION

Citation and commencement

1.—(1) These Regulations may be cited as the Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009.

(2) These Regulations come into force on 1st October 2009.

Interpretation

2. In these Regulations—

“certified copy” means a copy certified as a correct copy;

“establishment” means—

(a) a branch within the meaning of the Eleventh Company Law Directive (89/666/EEC)^{M1},
or

(b) a place of business that is not such a branch, and

“UK establishment” means an establishment in the United Kingdom.

Marginal Citations

M1 OJ L395, 31.12.1989, p.36.

PART 2

EXECUTION OF DOCUMENTS ETC

Application of Part

3. This Part applies to all overseas companies.

Formalities of doing business under the law of England and Wales and Northern Ireland

4. Sections 43, 44 and 46 of the Companies Act 2006 apply to overseas companies, modified so that they read as follows—

“Company contracts

43.—(1) Under the law of England and Wales or Northern Ireland a contract may be made—

- (a) by an overseas company, by writing under its common seal or in any manner permitted by the laws of the territory in which the company is incorporated for the execution of documents by such a company, and
- (b) on behalf of an overseas company, by any person who, in accordance with the laws of the territory in which the company is incorporated, is acting under the authority (express or implied) of that company.

(2) Any formalities required by law in the case of a contract made by an individual also apply, unless a contrary intention appears, to a contract made by or on behalf of an overseas company.

Execution of documents

44.—(1) Under the law of England and Wales or Northern Ireland a document is executed by an overseas company—

- (a) by the affixing of its common seal, or
- (b) if it is executed in any manner permitted by the laws of the territory in which the company is incorporated for the execution of documents by such a company.

(2) A document which—

- (a) is signed by a person who, in accordance with the laws of the territory in which an overseas company is incorporated, is acting under the authority (express or implied) of the company, and
- (b) is expressed (in whatever form of words) to be executed by the company,

has the same effect in relation to that company as it would have in relation to a company incorporated in England and Wales or Northern Ireland if executed under the common seal of a company so incorporated.

(3) In favour of a purchaser a document is deemed to have been duly executed by an overseas company if it purports to be signed in accordance with subsection (2).

A “purchaser” means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who for valuable consideration acquires an interest in property.

(4) Where a document is to be signed by a person on behalf of more than one overseas company, it is not duly signed by that person for the purposes of this section unless he signs it separately in each capacity.

(5) References in this section to a document being (or purporting to be) signed by a person who, in accordance with the laws of the territory in which an overseas company is incorporated, is acting under the authority (express or implied) of the company are to be read, in a case where that person is a firm, as references to its being (or purporting to be) signed by an individual authorised by the firm to sign on its behalf.

(6) This section applies to a document that is (or purports to be) executed by an overseas company in the name of or on behalf of another person whether or not that person is also an overseas company.

Execution of deeds

46.—(1) A document is validly executed by an overseas company as a deed for the purposes of section 1(2)(b) of the Law of Property (Miscellaneous Provisions) Act 1989 (c.34) and for the purposes of the law of Northern Ireland if, and only if—

- (a) it is duly executed by the company, and
- (b) it is delivered as a deed.

(2) For the purposes of subsection (1)(b) a document is presumed to be delivered upon its being executed, unless a contrary intention is proved.”.

Formalities of doing business under the law of Scotland

5. Section 48 of the Companies Act 2006 applies to overseas companies, modified so that it reads as follows—

“Execution of documents by overseas companies

48.—(1) The following provision forms part of the law of Scotland only.

(2) For the purposes of any enactment—

- (a) providing for a document to be executed by a company by affixing its common seal, or
- (b) referring (in whatever terms) to a document so executed,

a document signed or subscribed by or on behalf of an overseas company in accordance with the provisions of the Requirements of Writing (Scotland) Act 1995 (c.7) has effect as if so executed.”.

Other matters

6. Section 51 of the Companies Act 2006 applies to overseas companies, modified so that it reads as follows—

“Pre-incorporation contracts, deeds and obligations

51.—(1) A contract that purports to be made by or on behalf of an overseas company at a time when the company has not been formed has effect, subject to any agreement to the contrary, as one made with the person purporting to act for the company or as agent for it, and he is personally liable on the contract accordingly.

(2) Subsection (1) applies—

- (a) to the making of a deed under the law of England and Wales or Northern Ireland, and
- (b) to the undertaking of an obligation under the law of Scotland,

as it applies to the making of a contract.”.

Revocation

7. The Foreign Companies (Execution of Documents) Regulations 1994 ^{M2} and the Foreign Companies (Execution of Documents) Regulations (Northern Ireland) 2003 ^{M3} are revoked.

Marginal Citations
M2 S.I. 1994/950.
M3 S.R. (NI) 2003 No 5.

PART 3

REGISTRATION OF CHARGES

Introduction

Application and interpretation of Part

- 8.**—(1) This Part applies to an overseas company that is registered (as defined below).
- (2) For the purposes of this Part—
- (a) an overseas company becomes registered when it complies with Part 2 (initial registration of particulars) of the Overseas Companies Regulations 2009 ^{M4} in respect of one or more UK establishments and those particulars are registered, and
 - (b) an overseas company ceases to be registered when it gives notice under regulation 77 (notice of closure of UK establishment) of those regulations in respect of all its UK establishments and that notice is registered.
- (3) For the purposes of this Part the particulars and notice referred to in paragraph (2) are not treated as registered unless and until they are on the register and accordingly available for public inspection.
- (4) In this Part “charge”—
- (a) in England and Wales and Northern Ireland, includes a mortgage;
 - (b) in Scotland, includes any right in security.
- ^{F1}(5)

Textual Amendments
F1 Reg. 8(5) omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(2)**

Marginal Citations
M4 S.I. 2009/1801.

Charges requiring registration

Charges requiring registration

^{F2}9.

Textual Amendments

F2 Regs. 9-22 omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(3)**

Duty to deliver particulars of charge etc for registration

F210.

Textual Amendments

F2 Regs. 9-22 omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(3)**

The required particulars

F211.

Textual Amendments

F2 Regs. 9-22 omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(3)**

The period allowed for registration

F212.

Textual Amendments

F2 Regs. 9-22 omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(3)**

Charge by way of ex facie absolute disposition

F213.

Textual Amendments

F2 Regs. 9-22 omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(3)**

Special rules for debentures

Special rules about debentures: charge in series of debentures

^{F2}14.

Textual Amendments

F2 [Regs. 9-22](#) omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(3)**

Special rules about debentures: additional registration requirement for commission etc

^{F2}15.

Textual Amendments

F2 [Regs. 9-22](#) omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(3)**

Special rules about debentures: period allowed for registration

^{F2}16.

Textual Amendments

F2 [Regs. 9-22](#) omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(3)**

Special rules about debentures: endorsement of certificate on debentures

^{F2}17.

Textual Amendments

F2 [Regs. 9-22](#) omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(3)**

The register of charges

The register of charges

^{F2}18.

Textual Amendments

F2 Regs. 9-22 omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(3)**

Consequences of failure to register

F219.

Textual Amendments

F2 Regs. 9-22 omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(3)**

Registration of enforcement of security

F220.

Textual Amendments

F2 Regs. 9-22 omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(3)**

Entries of satisfaction and release

F221.

Textual Amendments

F2 Regs. 9-22 omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(3)**

Rectification of register of charges

F222.

Textual Amendments

F2 Regs. 9-22 omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(3)**

Companies' records and register

Companies to keep available for inspection copies of instruments creating charges

23.—(1) A company to which this Part applies must keep available for inspection a copy of every instrument creating a charge [^{F3}referred to in regulation 24(1)].

^{F4}(2)

Textual Amendments

- F3** Words in [reg. 23\(1\)](#) substituted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(4)(a)**
- F4** [Reg. 23\(2\)](#) omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(4)(b)**

Company's register of charges

24.—[^{F5}(1) Every company to which this Part applies must keep available for inspection a register of charges and must, as soon as practicable and in any event within 21 days of the creation of the charge, enter in it—

- (a) any charge on land situated in the United Kingdom or any interest in such land;
- (b) any charge on ships, aircraft or intellectual property registered in the United Kingdom; and
- (c) any floating charge on the whole or part of the company's property or undertaking situated in the United Kingdom.]

(2) The entry must in each case give a short description of the property [^{F6}, land or undertaking] charged, the amount of the charge and, except in the cases of securities to bearer, the names of the persons entitled to it.

[^{F7}(2A) Paragraph (1)(c) does not apply to a floating charge which expressly excludes all property or undertaking of the company situated in the United Kingdom or which purports to be a fixed charge.

(2B) A charge on land, for the purposes of this regulation, includes a charge created by a heritable security within the meaning of section 9(8) of the Conveyancing and Feudal Reform (Scotland) Act 1970.

(2C) The holding of debentures entitling the holder to a charge on land is not, for the purposes of this regulation, an interest in land.]

(3) An officer of the company who knowingly and wilfully authorises or permits the omission of an entry required to be made in pursuance of this regulation commits an offence.

- (4) A person guilty of an offence under this regulation is liable—
 - (a) on conviction on indictment, to a fine;
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.

Textual Amendments

- F5** [Reg. 24\(1\)](#) substituted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(5)(a)**

- F6** Words in reg. 24(2) inserted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(5)(b)**
- F7** Reg. 24(2A)-(2C) inserted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(5)(c)**

Copies of instruments and company's register of charges to be available for inspection

25.—(1) This regulation applies to—

- (a) documents required to be kept available for inspection under regulation 23 (copies of instruments creating charges), and
- (b) a company's register of charges kept in pursuance of regulation 24.

(2) The documents and register must be kept available for inspection at a location in the United Kingdom at which the company carries on business notified to the registrar in accordance with paragraph (3).

(3) The company must give notice to the registrar—

- (a) of the place at which the documents and register are kept available for inspection, within [^{F8}21] days of the first [^{F9}entry on the register] of a charge under [^{F10}regulation 24(1)], and
- (b) of any change in that place, within 14 days of any such change.

(4) The documents and register shall be open to the inspection—

- (a) of any creditor or member of the company without charge, and
- (b) of any other person on payment of £3.50 for each hour or part of an hour during which the right of inspection is exercised.

(5) If default is made in complying with paragraph (3) or an inspection required under paragraph (4) is refused, an offence is committed by—

- (a) the company, and
- (b) every officer of the company who is in default.

(6) A person guilty of an offence under this regulation is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

(7) If an inspection required under paragraph (4) is refused the court may by order compel an immediate inspection.

Textual Amendments

- F8** Word in [reg. 25\(3\)\(a\)](#) substituted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(6)(a)** (with [reg. 3](#))
- F9** Words in [reg. 25\(3\)\(a\)](#) substituted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(6)(b)** (with [reg. 3](#))
- F10** Words in [reg. 25\(3\)\(a\)](#) substituted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(6)(c)** (with [reg. 3](#))

Exercise of right of inspection

26.—(1) A company to which this Part applies shall make the documents and register referred to in regulation 25 available for inspection by a person on a day which has been specified by that person (“the specified day”) provided that—

- (a) the specified day is a working day; and
- (b) that person gives the company the required notice of the specified day.

(2) The required notice is at least 10 working days' notice of the specified day.

(3) When a person gives notice of the specified day he shall also give notice of the time on that day at which he wishes to start the inspection (which shall be any time between 9 am and 3 pm) and the company shall make its [^{F11}documents and register] available for inspection by that person for a period of at least 2 hours beginning with that time.

(4) A company that fails to comply with this regulation is treated as having refused inspection.

Textual Amendments

F11 Words in [reg. 26\(3\)](#) substituted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(7)**

[^{F12}Inspection by electronic means

26A. Where the company and the person agree, the inspection referred to in regulation 26 may be carried out by electronic means.]

Textual Amendments

F12 [Reg. 26A](#) inserted (coming into force in accordance with reg. 1(3) of the amending S.I.) by [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(8)**

Supplementary provisions

Delivery of documents in language other than English

^{F13}27.

Textual Amendments

F13 [Reg. 27](#) omitted (coming into force in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Overseas Companies \(Execution of Documents and Registration of Charges\) \(Amendment\) Regulations 2011 \(S.I. 2011/2194\)](#), regs. 1(2), **2(9)**

Transitional provisions and savings

28. The Schedule to these Regulations contains transitional provisions and savings.

Changes to legislation: There are currently no known outstanding effects for the The Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009. (See end of Document for details)

Department for Business, Innovation and Skills Minister for Business and Regulatory Reform
Ian Lucas

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There are currently no known outstanding effects for the The Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009.