
STATUTORY INSTRUMENTS

2017 No. 694

**The Scottish Partnerships (Register of People
with Significant Control) Regulations 2017**

PART 8

The protection of secured information

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

44.—(1) In this Part and in Part 10 “secured information” means the required particulars of a registrable person in relation to an eligible Scottish partnership, other than the information that restrictions on using or disclosing the individual's required particulars are in force under this Part.

(2) 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 48, 49 or 50 which—
 - (i) has not yet been determined by the registrar and has not been withdrawn under regulation 52 (withdrawal of an application);
 - (ii) has been determined by the registrar in favour of the applicant and the determination has not ceased to have effect under regulation 55 (duration of a determination);
 - (iii) was unsuccessful and the period of 42 days beginning with the date of the notice sent under regulation 48(5), 49(5) or 50(5) has not passed;
 - (iv) was unsuccessful and an appeal to the court in respect of that application under regulation 53 (appealing against an unsuccessful application) has not been determined by the court; or
 - (v) was unsuccessful and the applicant has successfully appealed the determination; and
- (b) the 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.

(3) The registrar is not obliged to check documents, other than those described in paragraph (2)(b), to ensure the absence of secured information in relation to which an application under regulation 48, 49 or 50 has been made.

(4) If the secured information in relation to which an application under regulation 48, 49 or 50 is made is available for public inspection on the register at the time that the application is made, the registrar must comply with paragraph (2) as soon as reasonably practicable.

(5) For the purposes of this regulation an application under regulation 48, 49 or 50 is made when it has been registered by the registrar.

Circumstances in which the registrar must not use or disclose secured information

45.—(1) Save as permitted in paragraph (2), the registrar must not use or disclose secured information if an application under regulation 48, 49 or 50 has been made in relation to that information which—

- (a) has not yet been determined by the registrar and has not been withdrawn under regulation 52 (withdrawal of an application);
- (b) has been determined by the registrar in favour of the applicant and the determination has not ceased to have effect under regulation 55 (duration of a determination);
- (c) was unsuccessful and the period of 42 days beginning with the date of the notice sent under regulation 48(5), 49(5) or 50(5) has not passed;
- (d) was unsuccessful and an appeal to the court in respect of that application under regulation 53 (appealing against an unsuccessful application) has not been determined by the court; or
- (e) was unsuccessful and the applicant has successfully appealed the determination.

(2) The registrar may—

- (a) use or disclose secured information for communicating with the registrable person to whom the application under regulation 48, 49 or 50 relates and, if different, the applicant;
- (b) disclose secured information on request to a specified public authority listed in Schedule 4 where the conditions specified in Part 1 of Schedule 5 are satisfied; and
- (c) disclose the information specified in paragraph (3) on request to—
 - (i) a credit institution, or
 - (ii) a financial institution

which satisfies the conditions specified in Part 2 of Schedule 5.

(3) The secured information for disclosure under paragraph (2)(c) is, in relation to the registrable person—

- (a) the individual's name,
- (b) a service address,
- (c) the country or territory (or part of the United Kingdom) in which the individual is usually resident,
- (d) nationality,
- (e) the month and year of birth,
- (f) the date on which the individual became a registrable person in relation to the eligible Scottish partnership to which the secured information relates ^{M1}, and
- (g) the nature of the individual's control over that eligible Scottish partnership.

(4) The registrar may rely on a statement delivered to the registrar by a credit institution or a financial institution under Part 2 of Schedule 5 as sufficient evidence of the matters stated therein.

(5) For the purposes of this regulation an application under regulation 48, 49 or 50 is made when it has been registered by the registrar.

Marginal Citations

M1 See regulation 17(5) in relation to an individual who is a registrable person on the commencement day.

Fee payable for the disclosure by the registrar of secured information to a specified public authority

46.—(1) On making a request for the disclosure of secured information under regulation 45(2) (b) the specified public authority 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 an eligible Scottish partnership, £5.00 per eligible Scottish partnership specified in the request.

Fee payable for the disclosure by the registrar of secured information to a credit institution or a financial institution

47.—(1) A credit institution or a financial institution which makes a request under regulation 45(2)(c) and Schedule 5 for the disclosure of information must pay a fee to the registrar for the disclosure of the information.

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

- (a) where the request for information is made by reference to an individual, £5.00 per individual specified in the request; or
- (b) where the request for information is made by reference to an eligible Scottish partnership, £5.00 per eligible Scottish partnership specified in the request.

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

48.—(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 the individual—

- (a) is a registrable person in relation to an eligible Scottish partnership;
- (b) proposes to become a registrable person in relation to an eligible Scottish partnership; or
- (c) used to be a registrable person in relation to an eligible Scottish partnership.

(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 the eligible Scottish partnership; or
- (b) one or more characteristics or personal attributes of the applicant when associated with the eligible Scottish partnership,

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; and

(vi) the name and, if applicable, the registered number of the eligible Scottish partnership in relation to which the applicant is, proposes to become, or used to be a registrable person.

(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 an eligible Scottish partnership sends an application under paragraph (1) to the registrar in relation to the eligible Scottish partnership, that individual must inform that eligible Scottish partnership of that fact as soon as reasonably practicable.

(5) The registrar must determine the application and, within the period of 7 days beginning with the date on which 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 an eligible Scottish partnership requiring the registrar to refrain from using or disclosing an individual's secured information

49.—(1) An eligible Scottish partnership (“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 the applicant.

(2) An eligible Scottish partnership may only make an application under paragraph (1) where S has given consent for the eligible Scottish partnership 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, if applicable, the registered number of the applicant;
 - (iv) an address at which documents may be effectively served on 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 the period of 7 days beginning with the date on which 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 the period of 28 days beginning with the date of the notice.

Application by a prospective partner in a prospective eligible Scottish partnership requiring the registrar to refrain from using or disclosing an individual's secured information

50.—(1) A prospective partner in a prospective eligible Scottish partnership (“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 eligible Scottish partnership, a registrable person in relation to the prospective eligible Scottish partnership.

(2) A prospective partner in a prospective eligible Scottish partnership may only make an application under paragraph (1) where S has given consent for the prospective partner 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 prospective eligible Scottish partnership, or
- (b) one or more characteristics or personal attributes of S when associated with the prospective eligible Scottish partnership,

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 proposed name of the eligible Scottish partnership to which the application 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 the period of 7 days beginning with the date on which 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 the period of 28 days beginning with the date of the notice.

Matters relating to an application made under regulation 48, 49 or 50

51.—(1) For the purpose of determining an application made under regulation 48, 49 or 50 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 48, 49 or 50;
 - (b) any documents provided in support of that application;
 - (c) any notice provided under regulation 52 (notice of withdrawal of application);
 - (d) any notice provided under regulation 53 (notice of an appeal);
 - (e) any notice provided under regulation 55 (notice that determination no longer wanted);
 - (f) any notice provided under regulation 56 (representations as to why determination should not be revoked); or
 - (g) any notice provided under regulation 82 (protection for registrable persons applying for protection of secured information).

(3) A person who makes an application under regulation 48, 49 or 50 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 48, 49 or 50 is made when it has been registered by the registrar.

Withdrawal of an application made under regulation 48, 49 or 50

52.—(1) If an individual in relation to whom an application has been made under regulation 48, 49 or 50 that has not yet been determined notifies the registrar in writing that the individual no longer wishes the registrar to determine the application, the registrar is not required to determine the application under regulation 48(5), 49(5) or 50(5) (as the case may be).

(2) Where an individual in relation to whom an application under regulation 48 or 49 has been made sends a notice to the registrar under paragraph (1), that individual must notify the eligible Scottish partnership to which the application related of this fact as soon as reasonably practicable.

(3) Where an individual in relation to whom an application under regulation 50 has been made sends a notice to the registrar under paragraph (1), that individual must notify the prospective partners who made the application and, if formed, the eligible Scottish partnership to which the application related of this fact as soon as reasonably practicable.

(4) For the purposes of this regulation an application under regulation 48, 49 or 50 is made when it has been registered by the registrar.

Appeal against an unsuccessful application made under regulation 48, 49 or 50

53.—(1) Subject to paragraph (2), an applicant who has received notice under regulation 48(5), 49(5) or 50(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 48(5), 49(5) or 50(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 the period of 7 days beginning with the day 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 48, 49 or 50

54.—(1) This regulation applies where the registrar has made a determination in respect of an application made under regulation 48, 49 or 50 which is not in favour of the applicant and to which regulation 82 does not apply.

(2) The registrar must make secured information on the register to which the application under regulation 48, 49 or 50 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 53(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 48(5), 49(5) or 50(5); or
- (b) where notice of an application for permission to appeal has been served on the registrar in accordance with regulation 53(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 individual to whom the secured information relates and the eligible Scottish partnership to which the application under regulation 48, 49 or 50 related of that action as soon as reasonably practicable.

Duration of a determination under regulation 48, 49 or 50

55.—(1) A determination under regulation 48(5), 49(5) or 50(5) that an application is successful continues to have effect until—

- (a) either—
 - (i) the individual to whom the determination relates; or
 - (ii) that individual's personal representative,
 notifies the registrar in writing that the individual wishes the determination to cease to have effect; or
- (b) the registrar revokes the determination under regulation 56.

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

(3) In this regulation “personal representative” means the executor or administrator for the time being of a deceased person.

Revocation of a determination under regulation 48(5), 49(5) or 50(5)

56.—(1) The registrar may revoke a determination made under regulation 48(5), 49(5) or 50(5) that an application is successful if—

- (a) the applicant in relation to the determination or (if different) the individual to whom the application relates has been found guilty of an offence under section 1112 of the Companies Act 2006 (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 individual 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 the period of 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 individual to whom the determination relates within the period of 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 individual to whom the secured information relates and the eligible Scottish partnership to which the application under regulation 48, 49 or 50 related of that action as soon as reasonably practicable.

Protection by an eligible Scottish partnership of secured information

57.—(1) Subject to paragraph (2), an eligible Scottish partnership must not use or disclose secured information relating to an individual (“S”) if—

- (a) in relation to that information an application has been made under regulation 48, 49 or 50; and
- (b) the eligible Scottish partnership has not received notification under regulation 52(2), 52(3), 54(3), 55(2), 56(6) or 82(6)(b).

(2) The eligible Scottish partnership may use or disclose secured information relating to S—

- (a) for communicating with S;
- (b) in order to comply with a requirement of these Regulations for information to be delivered to the registrar;
- (c) where S has given consent for the eligible Scottish partnership to use or disclose secured information relating to S; or
- (d) to the extent necessary in order to comply with regulation 43 of the 2017 Money Laundering Regulations (corporate bodies: obligations).

(3) For the purposes of this regulation, an application has been made—

- (a) under regulation 48(1)(a) or 48(1)(c) when the applicant has informed the eligible Scottish partnership under regulation 48(4) that the applicant has made an application;
- (b) under regulation 48(1)(b) when the eligible Scottish partnership has received the particular required by regulation 17(1)(i) (required particulars) in relation to that individual;
- (c) under regulation 49 when the eligible Scottish partnership sends the application to the registrar; or
- (d) under regulation 50 when the prospective partner sends the application to the registrar.

Changes to legislation:

There are currently no known outstanding effects for the The Scottish Partnerships (Register of People with Significant Control) Regulations 2017, PART 8.