

2021 No. 1267

NATIONAL SECURITY

The National Security and Investment Act 2021 (Procedure for Service) Regulations 2021

Made - - - -at 11.30 a.m. on 15th November 2021

Laid before Parliament at 4.00 p.m. on 15th November 2021

Coming into force - - - - 4th January 2022

The Secretary of State makes these Regulations in exercise of the powers conferred by section 53(1) and (2) of the National Security and Investment Act 2021(a).

PART 1

Introduction

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the National Security and Investment Act 2021 (Procedure for Service) Regulations 2021, and come into force on 4th January 2022.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(3) These Regulations do not apply to a document if rules of court make provision about its service.

Interpretation

2.—(1) In these Regulations—

“the Act” means the National Security and Investment Act 2021;

“the NSI electronic portal” means an online facility provided by the Secretary of State for sending documents required or allowed to be given in connection with the Act;

“representative” means a person who has been appointed to act on behalf of another person in connection with the giving of documents under the Act.

(2) In these Regulations—

(a) references to the giving of a document (however expressed) include references to the service of a document;

(b) references to documents include references to orders, notices, notifications and applications required or allowed to be given under the Act.

PART 2

Service by the Secretary of State

Service of documents by the Secretary of State

3.—(1) A document required or allowed by the Act to be given to a person by the Secretary of State must be given—

- (a) by sending it by email to that person's email address (or the email address of their representative), as provided for in regulation 4, or
- (b) by posting it to that person's postal address (or the postal address of that person's representative), as provided for in regulation 5.

(2) For the purposes of paragraph (1)(b), "posting" a document means sending that document pre-paid by a postal service intended to ensure expeditious delivery.

(3) A document sent by email in accordance with paragraph (1)(a) is to be treated as having been given immediately after it is sent.

(4) A document posted in accordance with paragraph (1)(b)—

- (a) to an address within the United Kingdom, is to be treated as having been given on the second working day after posting;
- (b) to an address outside the United Kingdom, is to be treated as having been given on the fifth working day after posting.

(5) When giving a document under this regulation, the Secretary of State must mark it as being for the attention of the person to whom it is required or allowed to be given under the Act.

(6) Where the person referred to in paragraph (5) is a body corporate or unincorporate, the document being given to that person must additionally be marked as being for the attention of an officer or member of that body (as the case may be) whom the Secretary of State considers to be appropriate.

Address for service by email under regulation 3(1)(a)

4.—(1) For the purposes of regulation 3(1)(a), a person's email address (or the email address of their representative) is the email address provided by that person to the Secretary of State in connection with the giving of documents under the Act.

(2) Where an email address as referred to in paragraph (1) has not been provided, a person's email address is—

- (a) in the case of an individual, an email address published for the time being by that person as an email address for contacting that person, or
- (b) in the case of a body corporate or unincorporate, the general email address published for the time being by that body.

(3) Where an email address as referred to in paragraphs (1) and (2) has not been provided or published (as the case may be), or if the Secretary of State has reason to believe that such an address is unsuitable or inadequate, a person's email address is any email address by means of which the Secretary of State reasonably believes that the document will come to the attention of that person (or their representative).

Address for service by post under regulation 3(1)(b)

5.—(1) For the purposes of regulation 3(1)(b), a person's postal address (or the postal address of their representative) is the postal address provided by that person to the Secretary of State in connection with the giving of documents under the Act.

(2) Where a postal address as referred to in paragraph (1) has not been provided, a person's postal address is—

- (a) where that person is a body corporate, the address of its registered office or principal office, or
- (b) where that person is a partnership or an unincorporated association or body, the address of its principal office.

(3) In the case of—

- (a) a body corporate registered outside the United Kingdom,
- (b) a partnership carrying on business outside the United Kingdom, or
- (c) an unincorporated association or body with offices outside the United Kingdom,

the references in paragraph (2) to its principal office include references to its principal office in the United Kingdom (if any).

(4) Where a postal address as referred to in paragraphs (1) and (2) has not been provided or is not known (as the case may be), or if the Secretary of State has reason to believe that such an address is unsuitable or inadequate, a person's postal address is any postal address by means of which the Secretary of State reasonably believes that the document will come to the attention of that person (or their representative).

PART 3

Service on the Secretary of State

Service of documents on the Secretary of State

6.—(1) The following documents required or allowed by the Act to be given by a person to the Secretary of State must be sent using the NSI electronic portal—

- (a) a mandatory notice under section 14(1) of the Act;
- (b) a validation application under section 16(1) of the Act;
- (c) a voluntary notice under section 18(2) of the Act.

(2) Where a document is given to the Secretary of State in accordance with paragraph (1), the document is to be treated as having been given once it is registered on the NSI electronic portal.

(3) A document not covered by paragraph (1) which is required or allowed by the Act to be given by a person to the Secretary of State must be sent by email, to the email address specified for that purpose on the gov.uk website.

(4) Where a document is given to the Secretary of State in accordance with paragraph (3), the document is not to be treated as having been given until it is received by the Secretary of State in a form which is legible and capable of being used for subsequent reference.

(5) A document required or allowed by the Act to be given by a person to the Secretary of State may be given by that person's representative.

(6) This regulation is subject to regulation 7.

Exceptions to regulation 6 requirements

7.—(1) Paragraph (2) applies where a person who is required or allowed by the Act to give a document to the Secretary of State (or where that person's representative) considers that—

- (a) they are unable to comply with the requirements in regulation 6, or
- (b) there is a good reason not to comply with the requirements in regulation 6.

(2) The person (or their representative) must—

- (a) establish contact with the Secretary of State by alternative means, within the time limit (if any) for giving the document to the Secretary of State, and

- (b) propose to the Secretary of State an alternative means for giving the document to the Secretary of State (which may or may not be the same as the alternative means referred to in sub-paragraph (a)).

(3) Where the Secretary of State has been contacted in accordance with paragraph (2) and is satisfied that the person (or their representative) is unable or has good reason not to comply with the requirements in regulation 6, the Secretary of State must agree to be given the document by alternative means (which may or may not be the same as the alternative means referred to in paragraph (2)(a) or (b)).

(4) Where the Secretary of State agrees to be given a document by alternative means under this regulation—

- (a) if there is a time limit for giving the document under the Act, that remains unchanged, and
- (b) the document is not to be treated as having been given until it is received by the Secretary of State in a form which is legible and capable of being used for subsequent reference.

Callanan

Parliamentary Under Secretary of State

At 11.30 a.m. on 15th November 2021 Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify the procedure for serving (or giving) documents which are required or allowed to be given under the National Security and Investment Act 2021 (“the Act”).

Part 1 contains introductory provisions. Regulation 2 makes provision about the meaning of terms used in the Regulations.

Part 2 contains rules on the service of documents by the Secretary of State on a person required or allowed to be given documents under the Act (or on their representative). Regulation 3 allows for documents to be given by email or by post. It also contains provisions on when a document is to be treated as having been given (including on the appropriate types of postal service to use for this purpose), and what must be done if the intended recipient is not an individual. Regulation 4 makes provision as to the address for service by email, and regulation 5 makes provision as to the address for service by post.

Part 3 contains rules about the service of documents on the Secretary of State by a person required or allowed by the Act to give documents to the Secretary of State (or by their representative). Regulation 6 requires documents which are required or allowed to be given to the Secretary of State under the Act to be given to the Secretary of State by electronic means. In the case of the three types of documents specified, documents must be given using a customised electronic portal (“the NSI electronic portal”); and in the case of all other documents, documents must be given by email. Regulation 7 allows a person who considers that they are unable to comply with the requirements in regulation 6, or that there is a good reason for not doing so, to seek to agree an alternative means of giving documents to the Secretary of State. It also requires the Secretary of State to agree to be given documents by alternative means where the Secretary of State is satisfied that the person is unable or has good reason not to comply with the requirements in regulation 6, and makes provision as to when a document is to be treated as being given in such circumstances.

A full impact assessment has not been produced for this instrument, as no significant impact on the private, voluntary or public sectors is foreseen. An Explanatory Memorandum has been published alongside these Regulations on www.legislation.gov.uk.

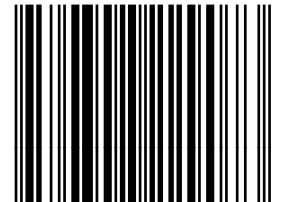
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£4.90

<http://www.legislation.gov.uk/id/uksi/2021/1267>

ISBN 978-0-34-822907-3



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