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STATUTORY INSTRUMENTS

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**2009 No. 2437**

**The Companies (Companies Authorised  
to Register) Regulations 2009**

**PART 2**

**REGISTRATION REQUIREMENTS**

*Introduction*

**Application of this Part**

2.—(1) The provisions of this Part apply in relation to the registration of a company under the Companies Act 2006 in pursuance of section 1040 of that Act (companies not formed under companies legislation but authorised to register).

(2) In this Part—

- (a) references to a company are to a company authorised to register under that section (see subsections (1), (4) and (5) of that section); and
- (b) references to registration are to registration under that section.

*Agreement of members to registration*

**Agreement of members to registration**

3.—(1) A company must not register without the assent of a majority of such of its members as are present in person or by proxy (in cases where proxies are allowed) at a general meeting summoned for the purpose.

(2) Where a company not having the liability of its members limited by an enactment or letters patent wishes to register as a limited company, the majority required to assent as required by paragraph (1) is not less than 75% of the members present in person or by proxy at the meeting.

(3) In computing any majority under this regulation when a poll is demanded, regard is to be had to the number of votes to which each member is entitled according to the company's regulations.

*Requirements for registration*

**Registration documents**

4.—(1) An application for registration of the company must be delivered to the registrar together with the documents required by this regulation and a statement of compliance.

(2) The application for registration must state—

- (a) the name with which the company is proposed to be registered,

- (b) whether the company's registered office is to be situated in England and Wales (or in Wales), in Scotland or in Northern Ireland,
  - (c) whether the liability of the members of the company is to be limited, and if so whether it is to be limited by shares or by guarantee, and
  - (d) whether the company is to be a private or a public company.
- (3) The application must contain—
- (a) in the case of a joint stock company, a statement of capital and initial shareholdings (see regulation 5);
  - (b) in the case of a company that is to be limited by guarantee, a statement of guarantee (see regulation 6);
  - (c) a statement of the company's proposed officers (see regulation 7).
- (4) The application must contain—
- (a) a statement of the intended address of the company's registered office, and
  - (b) a copy of any enactment, royal charter, letters patent, deed of settlement, contract of partnership or other instrument constituting or regulating the company.
- (5) The application must be delivered—
- (a) to the registrar of companies for England and Wales, if the registered office of the company is to be situated in England and Wales (or in Wales);
  - (b) to the registrar of companies for Scotland, if the registered office of the company is to be situated in Scotland;
  - (c) to the registrar of companies for Northern Ireland, if the registered office of the company is to be situated in Northern Ireland.

### **Statement of capital and initial shareholdings**

**5.—**(1) The statement of capital and initial shareholdings required to be delivered in the case of a joint stock company must comply with this regulation.

- (2) It must state—
- (a) the total number of shares of the company that on a date specified in the statement (“the reference date”) are held by members of the company,
  - (b) the aggregate nominal value of those shares,
  - (c) for each class of shares—
    - (i) the particulars specified in paragraph (4) below of the rights attached to the shares,
    - (ii) the total number of shares of that class, and
    - (iii) the aggregate nominal value of shares of that class, and
  - (d) the amount to be paid up and the amount (if any) to be unpaid on each share (whether on account of the nominal value of the share or by way of premium).
- (3) The reference date must be not more than 28 days before the date of the application for registration.
- (4) The particulars referred to in paragraph (2)(c)(i) are—
- (a) particulars of any voting rights attached to the shares, including rights that arise only in certain circumstances;
  - (b) particulars of any rights attached to the shares, as respects dividends, to participate in a distribution;

- (c) particulars of any rights attached to the shares, as respects capital, to participate in a distribution (including on winding up); and
  - (d) whether the shares are to be redeemed or are liable to be redeemed at the option of the company or the shareholder.
- (5) The statement of capital and initial shareholdings must also state—
- (a) the names and service addresses of all persons who on the reference date were members of the company, and
  - (b) with respect to each member of the company—
    - (i) the number, nominal value (of each share) and class of shares held by that member on that date, and
    - (ii) the amount to be paid up and the amount (if any) to be unpaid on each share (whether on account of the nominal value of the share or by way of premium).
- (6) For the purposes of paragraph (5)(a) a person’s “name” means his Christian name (or other forename) and surname, except that in the case of—
- (a) a peer, or
  - (b) 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.
- (7) Where a member of the company holds shares of more than one class, the information required under paragraph (5)(b)(i) is required for each class.

### **Statement of guarantee**

6.—(1) Where the company proposes to register as a company limited by guarantee, the members’ assent to its being registered (see regulation 3) must be accompanied by a resolution containing a statement of guarantee.

(2) The statement of guarantee required is a statement that each member undertakes that, if the company is wound up while he is a member, or within one year after he ceases to be a member, he will contribute to the assets of the company such amount as may be required for—

- (a) payment of the debts and liabilities of the company contracted before he ceases to be a member,
- (b) payment of the costs, charges and expenses of winding up, and
- (c) adjustment of the rights of the contributories among themselves,

not exceeding a specified amount.

(3) The statement of guarantee required to be delivered to the registrar in the case of a company that is to be limited by guarantee is a copy of the resolution containing the statement of guarantee.

### **Statement of proposed officers**

7.—(1) The statement of the company’s proposed officers required to be delivered to the registrar must contain the required particulars of—

- (a) the person who is, or persons who are, to be a director or directors of the company on registration;
- (b) in the case of a company that is to be a private company, any person who is (or any persons who are) to be the secretary (or joint secretaries) of the company on registration;

- (c) in the case of a company that is to be a public company, the person who is (or the persons who are) to be the secretary (or joint secretaries) of the company on registration;
  - (d) a consent by each person named as a director, as secretary or as one of joint secretaries, to act in the relevant capacity.
- (2) The required particulars are the particulars that will be required to be stated—
- (a) in the case of a director, in the company’s register of directors and register of residential addresses (see sections 162 to 165 of the Companies Act 2006);
  - (b) in the case of a secretary, in the company’s register of secretaries (see sections 277 to 278 of that Act).
- (3) Regulation 7 of the Companies (Disclosure of Address) Regulations 2009<sup>(1)</sup> (disclosure of protected information: application under section 243 on behalf of proposed director) applies as if—
- (a) references to a subscriber to the memorandum of association were to any member of the company, and
  - (b) references to the proposed company were to the company proposing to register.

### **Statement of compliance**

8.—(1) The statement of compliance required to be delivered to the registrar is a statement that the requirements of this Part as to registration have been complied with.

- (2) The registrar may accept the statement of compliance as sufficient evidence of compliance.

### *Registration as a public company*

### **Registration as a public company**

- 9.—(1) A joint stock company may be registered as a public company limited by shares if—
- (a) the following conditions are met, and
  - (b) the application for registration is accompanied by the documents specified in paragraph (4) below.
- (2) The conditions are—
- (a) that the requirements of section 91 of the Companies Act 2006 are met as regards its share capital;
  - (b) the requirements of section 92 of that Act are met as regards its net assets; and
  - (c) if section 93 of that Act applies (recent allotment of shares for non-cash consideration), that the requirements of that section are met.
- (3) Sections 91 to 93 apply for this purpose as in the case of a private company applying to be re-registered under section 90 of the Companies Act 2006 (re-registration of private company as public), but as if any reference to the special resolution required by section 90 were to the joint stock company’s resolution that it be a public company.
- (4) The following documents must be delivered to the registrar together with the application for registration (as well as those required by regulation 4)—
- (a) a copy of the resolution that the company be a public company;
  - (b) a copy of the balance sheet and other documents referred to in section 92(1); and

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(1) [S.I. 2009/214](#).

- (c) if section 93 applies (recent allotment of shares for non-cash consideration), a copy of the valuation report (if any) under subsection (2)(a) of that section.
- (5) The statement of compliance required to be delivered with the application is a statement that the requirements of this Part as to registration as a public company have been complied with.
- (6) The registrar may accept the statement of compliance as sufficient evidence that the company is entitled to be registered as a public company.

#### *Change of name on registration*

#### **Change of name on registration**

- 10.**—(1) Where the name of a company seeking registration is a name by which it is precluded from being registered by any provision of the Companies Acts, either—
- (a) because it is directly prohibited from being registered with that name, or
  - (b) because the Secretary of State would not approve the company being registered with that name,
- the company may change its name with effect from the date on which it is registered.
- (2) A change of name under this regulation requires the like assent of the company's members as is required by regulation 3 for registration.

#### *Registration*

#### **Registration**

- 11.** If the registrar is satisfied that the requirements of this Part as to registration are complied with, the registrar shall register the documents delivered to him.

#### **Issue of certificate of incorporation**

- 12.**—(1) On the registration of a company, the registrar shall give a certificate that the company is incorporated.
- (2) The certificate must state—
- (a) the name and registered number of the company,
  - (b) the date of its incorporation,
  - (c) whether it is a limited or unlimited company, and if it is limited whether it is limited by shares or limited by guarantee,
  - (d) whether it is a private or a public company, and
  - (e) whether the company's registered office is situated in England and Wales (or in Wales), in Scotland or in Northern Ireland.
- (3) The certificate must be signed by the registrar or authenticated by the registrar's official seal.
- (4) The certificate is conclusive evidence that the requirements of this Part as to registration have been complied with and that the company is duly registered under the Companies Act 2006.
- (5) Section 1064 of that Act (public notice of certificate of incorporation) applies to a certificate of incorporation issued under this regulation.