EXPLANATORY MEMORANDUM TO

THE INFORMATION SHARING (DISCLOSURE BY THE REGISTRAR) REGULATIONS 2024

2024 No. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by Department for Business and Trade and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Kevin Hollinrake, Minister of State for the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

2.2 Matthew Ray, Deputy Director for Company Law and Governance, at the Department for Business and Trade confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Mijan Hussain at the Department for Business and Trade Telephone: 07742767854 email: clgcorrespondence@businessandtrade.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument enables the registrar to disclose information to specified persons to assist with specified purposes relating to insolvency and/or bankruptcy proceedings.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the whole of the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the whole of the United Kingdom.

5. Policy Context

What is being done and why?

5.1 The registrar of companies has powers to disclose information to public authorities to assist with the discharge of their public functions. However, certain persons such as insolvency practitioners (including the official receiver), for which there may in certain circumstances be a case for the registrar to disclose information to in order to facilitate the performance of some of their functions, are not characterizable as public authorities when performing certain of their functions (for example, maximising returns to creditors). Such functions are of a non-public nature. This instrument ensures that the Registrar is able share information with insolvency practitioners and

other office holders engaged in insolvency proceedings. This will also apply to Northern Irish and Scottish equivalents.

What was the previous policy, how is this different?

5.2 The general power contained in section 1110F(1)(b) of the Companies Act 2006 ("the 2006 Act") (as introduced by section 94 of the Economic Crime and Corporate Transparency Act 2023, "the 2023 Act"), for the Registrar to disclose information to public authorities, replaces previous powers in secondary legislation for the registrar to disclose certain information to specified public authorities. The 2023 Act also introduced a power for the Secretary of State to make regulations establishing further information disclosure gateways for the registrar, in section 1110F(1)(c) of the 2006 Act. These Regulations, made under section 1110(1)(c), allow the Registrar to disclose information to persons, such as insolvency practitioners and official receivers, for certain specified functions which are not considered to be of a public nature.

6. Legislative and Legal Context

How has the law changed?

6.1 The 2023 Act amended the 2006 Act to give the registrar powers to disclose information to public authorities for the performance of their functions which are public in nature, and for the Secretary of State to make regulations to extend these information-sharing powers to specified persons for specific purposes. This instrument extends these powers to specified office holders that are involved in administering insolvencies.

Why was this approach taken to change the law?

6.2 The power under section 1110F(1)(c) of the 2006 Act provides the simplest and most appropriate way of delivering the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 A consultation was not required as this will have a positive impact on a subset of stakeholders who, following the removal of a hurdle, will have access to the same information for the purposes specified.

8. Applicable Guidance

8.1 No guidance will be provided as it is not required.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there is no, or no significant, impact on business, charities or voluntary bodies of this instrument. As outlined in the Impact Assessment published alongside the primary legislation, increased data sharing between Companies House and other organisations will not have a direct cost to business. See here for more information: https://publications.parliament.uk/pa/bills/cbill/58-03/0154/1.ImpactAssessmentfromDepartmentforBusinessEnergyandIndustrialStrategy.pdf

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because as outlined in the Impact Assessment published alongside the primary legislation, increased data sharing between Companies House and other organisations will not have a direct cost to business.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because this instrument places no obligations or requirements on public sector bodies.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation will be through engagement with the Insolvency Service.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Kevin Hollinrake has made the following statement: "A statutory review clause is not included in the instrument since the additional requirements are not extensive and are considered to meet the Government's 'de minimis' regulatory impact criteria, meaning no impact assessment is required."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister of State for the Department for Business and Trade has made the following statement regarding Human Rights:

"In my view the provisions of the Information Sharing (Disclosure by the Registrar) Regulations 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").